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VIRGINIA WILDERNESS ACT OF 1984

SEPTEMBER 18 (legislative day, SEPTEMBER 17), 1984.—Ordered to be printed

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. 2805]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 2805) to designate certain public lands in Virginia as additions to the National Wilderness Preservation System, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

SHORT EXPLANATION

The bill, as reported by the Committee, would designate 11 areas (totaling approximately 55,984 acres) in the national forests in the State of Virginia as wilderness areas and as components of the National Wilderness Preservation System. The bill provides for the Secretary of Agriculture to administer the areas designated as wilderness by the bill in accordance with the provisions of the Wilderness Act, to promptly file maps and legal descriptions of the designated areas with appropriate committees of Congress, and to make the maps and descriptions available for public inspection.

Further, the bill contains language to ensure that National Forest System lands in the State of Virginia that were studied in the Department of Agriculture's second roadless area review and evaluation and not designated as wilderness or for wilderness study by the bill are released for such uses as are deemed appropriate through the national forest management planning process. The bill also prohibits, unless expressly authorized by Congress, any further statewide roadless area review and evaluation of National Forest System lands in Virginia for purposes of considering the wilderness suitability of such lands.

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The bill would also designate 4 areas (totaling approximately 25,075 acres) in the national forests in the State of Virginia as wilderness study areas. Until Congress determines otherwise, the Secretary would have to manage the wilderness study areas to preserve their presently existing wilderness characteristics.

COMMITTEE AMENDMENT

The Committee amendment to the bill strikes all after the enacting clause and inserts in lieu thereof an amendment in the nature of a substitute that makes technical and clerical changes.

PURPOSE AND NEED FOR LEGISLATION

S. 2805 has as its purpose the designation of 10 new wilderness areas and the expansion of an existing wilderness area in the national forests in the State of Virginia. The legislation is the result of a review by the United States Department of Agriculture conducted during the period of 1977 through 1979 and termed the second roadless area review and evaluation (RARE II). That study examined the lands of the National Forest System nationwide and, through the final environmental impact statement issued by the Department of Agriculture in January 1979, recommended designation of certain of these lands as wilderness, including nine of the areas that would be designated by the bill.

The bill would also require the Secretary of Agriculture to review four other areas in the national forests in Virginia to determine their suitability for designation as wilderness.

The bill would also ensure that national forest lands not designated as wilderness or for wilderness study are released for such uses as are determined appropriate through the national forest land management planning process.

WILDERNESS DESIGNATIONS

The national forest lands that would be designated as wilderness by the bill total approximately 56,000 acres. They are located in the Jefferson National Forest and the George Washington National Forest. The areas to be designated as wilderness contain unique ecosystems and habitats, including stands of virgin timber, fast-running native trout streams, and high mountain bogs. More than 40 miles of the Appalachian Trail run through several of the areas.

Currently, there are only two wilderness areas in Virginia. One is located within the Shenandoah National Park and is administered by the National Park Service and the other, James River Face, is located in the Jefferson National Forest and is administered by the Forest Service.

All of the areas designated as wilderness would become part of the National Wilderness Preservation System. They would be managed by the Forest Service under provisions of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131–1136).

A description of the wilderness proposals of the bill follows:

Beartown Wilderness

Due to the fact that it is one of the very wild and remote areas of Virginia, the proposed 6,375-acre wilderness provides excellent habitat for black bear, peregrine falcon and bald eagles. It is located in Tazewell County, some 80 miles west of Roanoke, and was recommended for wilderness by the Forest Service in RARE II. A 7-mile system of streams begins in a boggy area of beaver ponds which receives rainfall 200 days during an average year. Upper reaches of the streams are characterized by waterfalls, massive boulders and dense flora and contain three distinct types of vegetation: Southern Appalachian hardwoods, Northern hardwoods, and Canadian Alpine forest. Due to its diversity of terrain and vegetation, the area is popular for primitive recreation such as hunting. It also affords outstanding opportunities for scientific research and education. Three miles of the Appalachian Trail pass through this area.

Kimberling Creek Wilderness

This 5,580-acre area lies some 60 miles west of Roanoke and was also recommended for wilderness in RARE II. The terrain is rugged and largely comprises the North Fork of Kimberling Creek. Vegetation consists primarily of oak hardwood with hickory, white pine, and different yellow pine species scattered throughout. Access to the area is facilitated by old "wood roads" and trails which make it well suited for hiking and other primitive recreation uses.

Lewis Fork Wilderness

This 5,730-acre area covers the summit and northern and western flanks of Mt. Rogers whose elevation of 5,729 feet make it the highest peak in the State of Virginia. The area lies within the Mt. Rogers National Recreation Area and is traversed by some seven miles of the Appalachian Trail, making it heavily used for hiking and other primitive recreation. Native trout are found in the Lewis Fork drainage northeast of the summit and enhance fishing opportunities.

Elevations of the mountains in the area range from 3,000 feet to 5,729 feet at the top of Mt. Rogers. This provides excellent diversity of terrain (uncommon in most wilderness areas) as well as flora and fauna. Wildlife species abound, including the usual array of Appalachian mammals, large ravens, bald eagles, and bear. One of the southernmost Northern hardwood forests in the State is located here as well as an ecologically interesting spruce-fir forest on the summit of Mt. Rogers. The area was recommended for wilderness by the Forest Service in RARE II.

Little Dry Run Wilderness

This area comprising approximately 3,400 acres was recommended for wilderness by the Forest Service in RARE II and represents a mid-elevation pine-hardwood forest. It is located within the Mt. Rogers National Recreation Area and is popular for hunting and fishing. Wildlife species include deer, turkey, grouse, and brook trout.

Little Wilson Creek Wilderness

This 3,855-acre area lies only a few miles east of Mt. Rogers and the proposed Lewis Fork Wilderness and contains a portion of the Appalachian Trail. It is adjacent to Grayson Highlands State Park. Primitive recreation opportunities are excellent and access is facilitated by nearby Park roads. Horseback riding and family oriented recreation are especially suited to the gentler terrain of the area.

Due to excellent drainage, Little Wilson Creek has a native trout fishery and luxuriant growth of rhododendron and yellow birch along the creek bottom. Wildlife is abundant and consists of deer, turkey, grouse, ravens and occasionally eagles and bear. The area has been managed as de facto wilderness by the Forest Service for several years and was recommended by them for wilderness in RARE II.

Mountain Lake Wilderness

Located along the Virginia/West Virginia border, the 8,253-acre wilderness primarily consists of a highland plateau which sits squarely on the Eastern "Continental Divide", with some of its streams flowing into the Atlantic Ocean and others into the Gulf of Mexico. Because of its paramount natural values, this area was designated as a wilderness study area by Congress in 1975. The wilderness studies have been completed and wilderness designation is supported by the administration since there are only limited resource values that would be foregone by wilderness designations.

Due to its relatively large size and diverse natural values, this area would make an exceptionally significant addition to the wilderness system. Of primary importance are the area's ecological values which include superlative stands of virgin spruce and hemlock in the deep ravine of the War Branch Spur, an unusually large mountain bog called Big Soft Sleep or Big Good Bed because of the very soft, springy sphagnum moss growing in this particular area, and a mature hardwood forest with a lush fern, rhododendron and azalea undergrowth. Identifiable wildlife includes 45 species of mammals and 70 species of birds. Establishment of the wilderness will ensure that these values are permanently protected and that the long-term studies of the processes of nature, which are carried on by the University of Virginia through a research station located at the edge of the area, can continue without fear of disruption by the works of man.

In addition to its natural values, the area also represents outstanding opportunities for primitive recreation. The Appalachian Trail and several other hiking trails traverse the area and pass by numerous cliffs with several spectacular overlooks, particularly in the White Rocks portion along the State border. Other important uses are hunting, fishing, nature study, and primitive camping.

Peters Mountain Wilderness

This proposed wilderness containing 3,326 acres was also designated a wilderness study area by the Eastern Wilderness Act in 1975 and was recommended for wilderness by the Forest Service in RARE II. The area has elevations ranging from 2,000 to 3,956 feet and is covered by upland oak, primarily chestnut oak. Yellow

poplar, red oak, and hickory are found in the coves. The undergrowth is very open, but blueberry, mountain laurel, and greenbriar exist throughout. Blackberry is abundant in the upper elevations. A special feature is the high mountain bog at the head of Pine Branch Swamp—a swale distinguished by its dense patches of cinnamon fern, beds of sphagnum moss, and the carnivorous sundew plant.

The crest of Peters Mountain has numerous sandstone outcroppings which afford rewarding views of the surrounding countryside. Recreational opportunities are similar to the other wilderness proposals and include a portion of the Appalachian Trail and Stony Brook, a popular trout stream.

Thunder Ridge Wilderness

This relatively small wilderness proposal, consisting of 2,450 acres, lies on the crest of the Blue Ridge, is directly adjacent to the Blue Ridge Parkway, and contains portions of the Appalachian Trail. It also lies adjacent to the James River Face Wilderness, and when combined with that area and its proposed additions will comprise a contiguous wilderness resource exceeding 11,000 acres. Easy access afforded by the Parkway creates heavy recreational use.

James River Face Wilderness Addition

The link between James River Face and Thunder Ridge will be completed by the addition of this 200 acres to the 8,800-acre existing wilderness. The area is traversed by the Appalachian Trail.

Ramseys Draft Wilderness

Ramseys Draft is a tumbling mountain trout stream with magnificent adjacent stands of virgin white pine, hemlock, and "cove" hardwoods such as sugar maple, beech, oak, and basswood. The proposed 6,725-acre wilderness comprises the entire upper watershed of Ramseys Draft and its primary tributary, Jetty's Run, and encompasses the wilderness study area designated by Congress in 1975. Elevations range from 2,400 feet to 4,282 feet atop Hardscrabble Knob. Several other high peaks are located within the area or on the surrounding ridges which form the wilderness boundary. One of the peaks, Freezeland Flat, has one of the few natural "balds" (high elevation open meadow) in this part of the Appalachians. Wildlife is abundant in the area, with bear being especially notable.

There is an excellent system of trails in this proposed wilderness affording access for hikers, hunters, fishermen and other recreational users. The trail leading up the stream bottom is especially rewarding as it provides an opportunity to observe first hand the virgin timber species and dense forest canopy. Since the 1940's the Augusta County Garden Club has maintained a short nature trail in this area, which is especially appealing to family hikers.

St. Mary's Wilderness

This proposed wilderness, consisting of 10,090 acres, will be the largest single national forest wilderness in the State. It is located 10 miles south of Staunton, adjacent to the Blue Ridge Parkway, and comprises the upper watershed of the St. Mary's River. This

river is recognized throughout the State for its sparkling cascades and superb trout fishery and has been designated as a Scenic River by the State of Virginia. Mixed hardwoods characterize the forest land, but are broken by occasional fallen rock slopes emanating from the numerous rugged cliffs in the area.

Access to the area for primitive recreation is easy because of nearby roads, especially the Blue Ridge Parkway on the south. Interconnecting trails within and adjacent to the area enhance recreation values. Unlike much of the rest of the western slope of the Blue Ridge Mountains, the St. Mary's watershed comprises relatively gentle terrain, which is ideal for family-oriented, primitive recreation. A series of five separate free-standing mountain peaks within this area also makes for great diversity of terrain and gives recreation users a sense of spaciousness exceeding that found in most drainages.

DESIGNATION OF WILDERNESS STUDY AREAS

The 4 areas to be designated for wilderness study comprise approximately 25,075 acres. Two of the areas are located in the Jefferson National Forest and two in the George Washington National Forest. The bill requires that the Secretary of Agriculture give the public at least 60 days notice in advance of any hearing or other public meeting concerning any study area. The bill also requires these areas to be managed so as to preserve their existing wilderness characteristics during the period they are being studied and until Congress acts to designate them as wilderness areas or releases them for nonwilderness uses.

The Committee notes that designation by Congress of wilderness study areas in the Eastern United States is necessary as a result of the decision in the case of *Southern Appalachian Multiple Use Council* v. *Bergland* (No. A–C–80–1, W.D.N.C.). In that case, the U.S. District Court for the Western District of North Carolina held that the Eastern Wilderness Act did not give the Department of Agriculture authority to designate wilderness study areas, only to recommend such designation to Congress.

A description of the wilderness study proposals of the bill follows:

Rough Mountain Wilderness Study Area

This area consisting of 9,300 acres was recommended for wilderness in RARE II and is characterized by rugged terrain and conspicuous rock escarpments. Bordering roads facilitate access to the area and provide jump-off points for primitive recreation users. Vegetation consists of upland oaks with pitch and Table Mountain pine on the poorer sites. The area has small commercial value because of its ruggedness and poor quality timber.

The Committee has agreed to the Virginia delegation's request to defer wilderness consideration of this area while further studies are made to ensure that wilderness designation and attendant air quality standards will not impair expansion of an industrial facility at Covington. This air quality issues is discussed later in this report.

Rich Hole Wilderness Study Area

Also recommended for wilderness in RARE II, this 5,600-acre area has outstanding stands of virgin timber, including trees up to six feet in diameter and over 200 years old. The area includes the upper watersheds of North Branch and Alum Creeks and Brushy Mountain. Brushy Mountain is double crested in its central portion, the crests being separated by "holes" up to 500 feet deep which drain along cascades through gorges down to the main creeks. Giant hemlocks are found in abundance along the cascades and creeks and contribute to the area's overall primeval nature. A popular hiking trail runs through the center of the area, and a portion of the area is listed on the National Registry of Natural Landmarks.

The Committee has agreed to the wilderness study designation in deference to the Virginia delegation's request for more time to evaluate the implication of wilderness designation and air quality on an industrial facility in Covington, some 20 miles away.

Barbours Creek Wilderness Study Area

This tract which lies approximately 20 miles southwest of Covington and contains 5,875 acres is another area deferred for wilderness/air quality reasons. Barbours Creek and its tributary, Lipes Branch, are popular fishing streams, the latter having native trout. Black bear can be found in the upper reaches and wild turkey in the lower portions.

Shawvers Run Wilderness Study Area

Final wilderness action on this 3,400-acre area has also been deferred pending additional wilderness/air quality evaluation. Like the adjacent Barbours Creek Study area, of which it was previously a part, the area is highly valued for primitive recreation by local residents and offers excellent fishing opportunities. Both Valley Branch and Shawvers Run itself are native trout streams. The area is covered by a hardwood forest with large areas of mountain laurel, and its proximity to Roanoke would afford residents of that growing area a nearby wilderness experience.

AIR QUALITY

Industry and local governments in southwestern Virginia are concerned that the wilderness designations may result in more stringent air quality standards and, therefore, could curtail economic growth.

The Committee does not agree that there is a direct correlation between areas' inclusion in the National Wilderness Preservation System and more stringent air quality standards for the following reasons:

In 1977, Congress passed amendments to the Clean Air Act (P.L. 95–95) which established the prevention of significant deterioration program for areas with air cleaner than the national ambient air standards. The program included three classes of allowable emission increases for sulfur dioxide (SO_2) and particulates (TSP). Class I is approximately 10 to 20 times more stringent than Class II. The 1977 amendments also designated

all areas, with certain exceptions such as wilderness areas over 5,000 acres, as Class II. All additions to the National Wilderness Preservation System since that time have been Class II. Under the present law, only the Governors of the States have the authority to upgrade or downgrade areas within the three air quality classes.

Neither Congress nor any State has ever exercised its authority to upgrade wilderness areas to Class I from Class II. Further, a review of the number of Class II existing wilderness areas reveals that there are at least 14 communities located in 8 States that have wilderness areas within 20 miles of their borders. Some are large cities, i.e., Albuquerque, New Mexico; Salt Lake City, Utah; and Tucson, Arizona. The number of Class II wilderness sites now in existence is much larger than in 1977, and the number is increasing rapidly as new wilderness bills are enacted. As a result, any attempt by a future Governor or Congress to upgrade Class II wilderness sites to Class I would be met with formidable local opposition and prospects of such an upgrade would be remote.

There is no local or national impetus to redesignate these areas as Class I. All Virginia elected officials as well as major environmental organizations agree that such a redesignation would be undesirable.

For these reasons the Committee believes it unlikely that redesignations of Class II to Class I for the Virginia wilderness areas will ever occur. Nevertheless, at the request of Senators John Warner and Paul Trible, and in order to be as responsive as possible to industry concerns, the Committee has designated four sites in the vicinity of the Covington, Virginia, Westvaco paper mill for wilderness study rather than as permanent wilderness. These are Barbours Creek, Shawvers Run, Rough Mountain, and Rich Hole.

The Westvaco Corporation's Bleached Board Division is presently involved in a major expansion program. The Covington plant may be the major beneficiary of this expansion. The Corporation has expressed its concern that possible increased sulfer dioxide emissions from the expanded facility might impact on wilderness areas as much as 50 miles from the plant, should the areas ever be redesignated Class I from the present Class II. Westvaco has indicated that Class II increments present no problem to expansion plans or current emissions.

To analyze this situation adequately, the bill requires the Forest Service, in consultation with the Environmental Protection Agency and the State of Virginia, to conduct a field study on the impact of increased emissions on the wilderness study areas. The Committee also hopes that Westvaco will cooperate to its fullest in this analysis.

The proposed expansion of Westvaco's Covington plant will require the collection of Covington meteorological data and the development of a computer model that will predict, among other things, the direction in which their stack emissions will be carried and the concentration levels of its air pollutants.

Once their meteorological data and air modeling work have been approved by the Virginia Air Pollution Board, the Forest Service, in consultation with the Environmental Protection Agency and the

State of Virginia, shall review this information, modify the model where necessary, and use it to predict the air pollution concentration levels expected to be induced in each of the four proposed study sites.

Using appropriate existing data from other sites or by partial surveys of the actual sites, the Forest Service shall establish air quality related values and sensitivities that are representative of the four sites involved.

Based on this information, the Forest Service shall determine whether or not the emissions sources at Covington will be harmful to any of the study sites or in violation of a Class I air quality standard.

In addition, the Forest Service shall determine what Covington level of emission corresponds to the threshold of unacceptability at these sites; and, secondly, whether or not the threshold values will be in violation of Covington's close-in Class II air quality standards.

Based on this analysis, the Forest Service shall identify what limitations the four proposed sites would impose on Covington's future economic growth should they ever be elevated to a Class I air quality level.

The Committee believes, with the addition of this comprehensive study, that the legitimate concerns of industry in southwestern Virginia will be met in the provisions of S. 2805.

BUFFER ZONES

The bill contains a provision that would make it clear that Congress does not intend that the designation of wilderness areas in Virginia will lead to the creation of protective perimeters or buffer zones around such wilderness areas. The fact that nonwilderness activities or uses can be seen or heard from wilderness areas is not to preclude such activities or uses up to the boundary of the wilderness area.

APPALACHIAN TRAIL

As is noted previously in this Report, many of the wilderness proposals of the bill are traversed by portions of the Appalachian Trail. In designating the wilderness areas in the bill, the Committee believes that the Trail (and other trails) and its related structures represent a desirable existing use which is deemed compatible with wilderness. Specifically, it is the intent of the Committee that the Forest Service should continue traditional management practices for this use, including trail marking and footpath maintenance. Structure (shelter) maintenance may also be permitted and desirable for the protection of the wilderness and health and safety of persons within the area. Management decisions in this regard should be developed in consultation and coordination with the Appalachian Trail Conference and other interested organizations and individuals.

SUFFICIENCY AND RELEASE LANGUAGE

Background

In 1924, when the U.S. Forest Service decided it should manage wilderness as one of the many uses to be made of the National Forest System, it established the Gila Wilderness Reserve in the Gila National Forest in New Mexico. The purpose was to keep some parts of the Nation's forests in the condition in which mankind had found them, both as scientific benchmarks against which civilization's works could be compared and as recreational refuges for people who wanted to temporarily get away from the stresses of civilization. During the next 40 years, the Forest Service administratively established more of these areas, mostly in the West, from which evidence of human technology and development are substantially excluded.

In 1964, this wildnerness concept became national policy when Congress passed the Wilderness Act and established the National Wilderness Preservation System. That System incorporated the 9.1 million acres that had been set aside by the Forest Service over the previous 4 decades. Generally, the Wilderness Act specifies that within wilderness areas there will be no roads, no timber harvesting, no structures or installations, and no use of motor boats or landing of aircraft. Each wilderness area was to be an area where man was a visitor who did not remain.

The Wilderness Act gave the Forest Service 10 years to complete studies of the national forest primitive areas—areas temporarily reserved from access pending study of their suitability for wilderness designation. In addition, Congress provided that no future wilderness could be created in the national forests, except by Act of Congress. However, Congress did not preclude the management of lands within the National Forest System for primitive, roadless recreation, within the concept of multiple-use management.

As the Forest Service began its review of primitive areas within the national forests in the late 1960's to determine the suitability for wilderness designation of specific tracts, a number of problems arose in connection with established timber management plans. In many forests, after new sales were advertised, administrative protests were filed, charging that a particular sale would violate the statutory concept of multiple use. Usually, the allegation was that the proposed sale was in an area that should be designated as wilderness or that should be devoted to unstructured recreation with no harvesting of timber. As timber sales became tied up in such appeals and the orderly management of the national forests disintegrated, the Forest Service instituted the first roadless area review and evaluation (RARE I) as the planning process to resolve the problem.

By 1973, RARE I had resulted in the selection of 274 wilderness study areas containing approximately 12.3 million acres. The other roadless areas in the RARE I inventory, having been considered and rejected for possible wilderness designation, were not protected as wilderness and remained in their full multiple-use status.

The National Environmental Policy Act (NEPA) became law on January 1, 1970. It required the Executive Branch, before making any major decision having a significant impact on the human envi-

ronment, to prepare an assessment of the environmental impact of the proposed action. The NEPA was the basis of a lawsuit filed in 1972, as the RARE I process was nearing completion, that charged that the Forest Service must prepare environmental impact statements on roadless areas that were supposedly returned to multiple-use management. The Federal District Court for the Northern District of California agreed that the agency was subject to the decisionmaking process prescribed by NEPA, and all development activities on the roadless areas were stopped. See *Sierra Club* v. *Butz*, Civ. No. 72-1445-SC (N.D. Cal. 1972) 3 Environmental Law Reporter 20071.

As a result of restricted sources of timber supplies, tremendous pressures were placed on the remaining National Forest System lands that remained open to timber harvesting. In some forests, timber sale dropped dramatically below the allowable cuts. In other forests, timber sale levels were maintained, but sales were concentrated on lands outside the RARE I roadless areas. In these forests, the concentration of sales at the full sales volume on a limited area produced fears that these available areas would be overcut to the detriment of land and watersheds.

It was obvious that a remedy was needed for this situation, and the Forest Service decided that a faster planning process was the answer. Thus, the second roadless area review and evaluation (RARE II) was formulated to expedite the planning process for roadless areas. RARE II began in June 1977 and was intended to survey the roadless and undeveloped areas within the National Forest System and to distinguish areas suitable for wilderness designation from those most appropriate for other uses. The areas found suitable for wilderness would be recommended for addition to the National Wilderness Preservation System through congressional action. The remaining roadless lands would be allocated to nonwilderness uses determined under the multiple-use planning process, or allocated to further study.

On April 16, 1979, President Carter made final recommendations to Congress basd on the review of 2,919 identified roadless areas encompassing 62 million acres in the National Forest System. The Administration recommended that wilderness designation be given to approximately 15.1 million acres of the original 62-million acre roadless inventory. Another 10.8 million acres of roadless lands were determined to require further planning before decisions were made on their future management. The balance of the areas, which totaled about 36 million acres, were allotted to nonwilderness, multiple-use management.

Much litigation has occurred since the RARE II recommendations. This has had a direct bearing on congressional consideration of wilderness legislation. In June 1979, the State of California challenged the RARE II wilderness and nonwilderness allocations on National Forest System lands in that State. *California* v. *Bergland*, 483 F. Supp. 465 (E.D. Cal. 1980). The State and various environmental organizations which joined the lawsuit claimed that the RARE II final environmental impact statement was legally flawed. On January 8, 1980, the Federal district court agreed with the State's position, finding that the environmental statement for RARE II was deficient under the provisions of the National Envi-

ronmental Policy Act. The Court ruled that a more site-specific analysis of wilderness qualities was required for 46 of the areas allocated for nonwilderness. Additionally, the Court found flaws in the RARE II analysis process. As a result, the Court enjoined any development in the 46 disputed areas, pending preparation of an adequate environmental impact statement. The major points of the district court ruling were affirmed by the Ninth Circuit Court of Appeals. *California* v. *Block*, 690 F. 2d 753 (9th Cir. 1982).

The ruling by the Court of Appeals that the RARE II environmental impact statement was deficient had a significant impact on Forest Service activities. Although the decision applied specifically only to the 46 roadless areas in California, it was binding on other Federal district courts in the Ninth Circuit (comprising the States of California, Oregon, Washington, Idaho, Montana, Nevada, Arizona, Alaska, and Hawaii) and could be cited in States outside the Ninth Circuit's jurisdiction. The reasoning of the decision produces uncertainty regarding the RARE II study for other States. Management of roadless areas not designated as wilderness is subject to challenge through administrative appeals and lawsuits. In fact, such challenges have occurred. There have been three lawsuits filed in the Northwest that rely extensively on *California* v. *Block*. In *Earth First* v. *Block* (Civil No. 83-6298-ME-RE, D. Oreg.), the United States District Court for the District of Oregon enjoined the Forest Service from taking or permitting any action which would be inconsistent with the wilderness character of a roadless area in Oregon until the requirements of *California* v. *Block* and the NEPA have been met. Similarly, in *Kettle Range Conservation Group* v. *Block* (Civil No. C-83-590-JLQ, E.D. Wash.), the Forest Service was enjoined from taking or permitting any action which will change the wilderness characteristics of four roadless areas in Washington. In December 1983, the Oregon Natural Resources Council brought suit against the Forest Service in an attempt to enjoin any activity which would impair the wilderness characteristics of approximately 2.25 million acres of roadless lands in Oregon until the requirements of NEPA have been met. That suit is pending. *Oregon Natural Resources Council* v. *Block*, Civil No. 83-1902, D. Oreg.

In February 1983, Assistant Secretary of Agriculture John B. Crowell, Jr., announced that all roadless areas studied for wilderness potential during RARE II would be subject to reevaluation. This reevaluation was to be done as a part of the National Forest System land management planning process then underway for 120 national forest planning units and scheduled for completion in 1985.

The desire to avoid further wilderness study and to preclude litigation directed at stopping the continuation of management activities on roadless areas led to a search for a legislative solution. Provisions termed "sufficiency" and "release" language were the outcome of that search. Such language has appeared in legislation designating wilderness areas in Colorado, New Mexico, Alaska, Missouri, West Virginia, and Indiana. That language, which was generally patterned after the Colorado wilderness bill, continued to trouble a number of affected industry groups, and in an effort to address their concerns, Congress developed and agreed on a new

version of the so-called "release" language, which is included in the bill.

The status of National Forest Systems areas designated for further planning by RARE II and lying east of the 100th meridian was also placed in doubt by a case originating in North Carolina. The Eastern Wilderness Act designated certain National Forest System lands as wilderness and designated other lands as wilderness study areas. That Act directed the Secretary of Agriculture to review the study areas for their suitability or nonsuitability for wilderness designation and to make recommendations to the President, including recommendations for wilderness study areas. In *Southern Appalachian Multiple Use Control* v. *Bergland* (No. A–C–80–1, W.D. N.C.), a Federal district court ruled, in relying on the Eastern Wilderness Act, that the Secretary had no authority to administratively designate "further planning" areas (and thereby administratively withhold any management activities in the area pending the completion of the study and determination of the area's status), but only to recommend areas to be designated as wilderness study areas. The court also ruled that the Secretary could manage the areas recommended so as not to impair their suitability for wilderness, pending congressional action. The ruling had an effect on the land management planning process on eastern national forests (those affected by the provisions of the Eastern Wilderness Act) insofar as the evaluation of areas for wilderness suitability is concerned. Under the court's ruling, forest plans on national forests east of the 100th meridian cannot recommend areas for wilderness designation, rather they can only recommend to Congress that such areas be studied for their wilderness suitability.

Sufficiency and judicial review of the RARE II environmental statement

The bill contains language relating to the sufficiency of the RARE II final environmental impact statement. As previously discussed, the need for the language arises because of a Federal district court decision in *California* v. *Bergland, supra,* in which it was held that the RARE II environmental impact statement, as it applied to 46 areas considered for wilderness in California, had insufficiently considered the wilderness alternative for the areas. Activities that would impair the wilderness characteristics of the areas were enjoined until subsequent reconsideration of wilderness was completed. This action creates uncertainty over the management of some nonwilderness areas, where administrative or judicial appeals could halt some activities until adequate environmental impact statements are prepared. The Committee, in considering the bill, has reviewed the roadless areas in Virginia. It believes that the RARE II final environmental impact statement, insofar as National Forest System lands in Virginia are concerned, is sufficient, and, therefore, the bill provides that such environmental statement shall not be subject to judicial review.

Release, management, and future wilderness consideration of nonwilderness areas

The RARE II process during 1977 through 1979 took place concurrently with the development by the Forest Service of a new

land management planning process mandated by the National Forest Management Act of 1976 (NFMA). That process requires the national forest land management plans to be reviewed and revised periodically to provide for a variety of uses on the land. During the review and revision process, the Forest Service is required to study a broad range of potential uses and options for each national forest. NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System is only one of the many options that must be considered during the planning process for those lands which may be suited for wilderness designation. The Forest Service is presently developing the initial, or "first generation", plan for each national forest. These are the socalled "section 6" plans, and they are scheduled for completion by September 30, 1985. Upon implementation, these plans will be in effect for 10 to 15 years before being revised and updated.

One of the goals of RARE II was to consider the wilderness potential of National Forest System roadless areas. The Committee believes that, except as to those areas designated for wilderness study upon enactment of the bill, further consideration of the wilderness option during development of the initial plans for the National Forest System roadless areas in Virginia, as defined in section 5 of the bill, and during the period when the initial plan is in effect, would be duplicative of studies and reviews that have already been made by both the Forest Service and Congress. Therefore, the bill provides that the RARE II evaluation or the reference to certain other lands consitutes an adequate consideration of the suitability of these roadless areas for inclusion in the National Wilderness Preservation System and no further review by the Department of Agriculture shall be required prior to the revision of the initial land management plan for the national forest. This provision is necessary to ensure that these lands will be considered as functioning units of the national forests and has the practical effect of releasing these lands for multiple uses other than wilderness.

The NFMA provides that a national forest management plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however, provide that a forest plan "shall ordinarily be revised on a 10-year cycle or at least every 15 years." (36 CFR 219.10(g)). The language of the bill tracks these regulations.

By tying future review of the wilderness option to revision of initial plans, the Committee intends to make it clear, consistent with the NFMA and current Forest Service regulations, that amendments to a plan, including those that might result in a significant change in a plan, would not trigger the need for reconsideration of the wilderness option. The wilderness option does not need to be reconsidered until the Forest Service determines (1) based on a review of the lands covered by a plan, that conditions in the area covered by a plan have changed so significantly that the entire plan needs to be completely revised, or (2) that the statutory 15-year maximum life span of the plan is expiring.

A revision of a forest plan is a costly undertaking in terms of dollars and manpower and the Committee does not expect such an effort to be undertaken lightly. When required by changing condi-

tions, the Forest Service should make every effort to address local changes in land management plans through the amendment process, reserving the revision option only for major, forest-wide changes in conditions.

For example, if a new powerline is proposed to be built across a forest, any modification of the applicable forest plan to permit the line to be built would be accomplished by an amendment, not a revision, and therefore the wilderness option would not have to be reexamined. It is only when a proposed change in management would significantly affect overall goals or uses for the entire forest that a revision would be made. An example of such a situation is the recent eruption of Mt. St. Helens. Because it affected so much of the land in the Gifford Pinchot National Forest, including the forest's overall timber harvest schedule, the necessary changes in the applicable forest plan would likely be considered a revision of the plan. In this regard, the Committee notes that in the vast majority of cases the 10- to 15-year planning cycle established by the NFMA and in the existing regulations is short enough to accommodate most changes in circumstances without triggering more frequent plan "revisions". It is highly unlikely that conditions will change so dramatically during the 10- to 15-year planning cycle that anything more comprehensive than a plan amendment would be required.

It is not likely that primitive, semiprimitive, or motorized recreation use would change so rapidly over an entire national forest that the Forest Service or the Federal courts would be justified in concluding that the conditions in the forest are so significantly changed as to justify making a plan revision prior to the normal 10- to 15-year life span for the existing plan. For example, recreation use might increase in a specific area or areas resulting in changed conditions in the forest itself. In the judgment of the Forest Service, such changes could be met by amending the plan, as opposed to revising it. This is not to say that an increase in demand for recreation in a given area will automatically, in and of itself, constitute a valid requirement for even a plan amendment. In addition, it is not the Committee's intent, nor, in the judgment of the Committee, the intent of any Federal statute, to force the Forest Service into either plan amendments or revisions as a result of changes in use patterns in the national forests.

The Chief of the Forest Service has indicated that, in his view, most plans will be in existence for 10 years before they are revised. The Committee shares this view and anticipates that plans will not be revised in advance of their anticipated maximum life span absent extraordinary circumstances. The Committee understands and expects that the first generation plans will be completed by late 1985 in most cases and the time of revision for most plans will begin about 10 years from the date of implementation for each plan. Accordingly, the Committee expects that the wilderness option for any area will not be reexamined again until the plans have been in effect for 10 years, unless the area is specifically designated as a wilderness study area by Congress.

The Committee notes that administrative or judicial appeals may mean that some of the first generation plans will not actually be implemented until the late 1980's, and plan revisions would not

take place until a 10-year period has elapsed from the date each plan is implemented. If the full 15 years allowed by NFMA elapses before a revision is made, the wilderness option may not in some cases be reviewed until the year 2000 or later.

The question has also arisen as to whether a revision would be triggered if the Forest Service is directed by the courts to modify or rework an initial plan, or if the Forest Service withdraws an initial plan to correct technical errors or to address issues raised by an administrative appeal. The Committee wants to make it as clear as possible that any reworking of an initial plan for such reasons would not constitute a revision of the plan and would not require the reconsideration of the wilderness option for the lands covered by the plan.

This position is based on the fact that court-ordered or administrative reworkings or modifications of a plan would most likely come about to resolve inadequacies in the preparation of the plan under the reguirements of NFMA and other applicable laws. Since the NFMA, and the implementing regulations, specify that a plan revision will only occur when the Secretary finds that there has been a significant change in conditions in the forest planning unit, or at least once every 10 to 15 years, it is clear that such reworking or modification would not be a revision for at least two reasons: (1) the modification would not be the result of any significant change in conditions in the forest planning unit and (2) a plan must be properly prepared and implemented before it can be revised.

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that areas not designated for wilderness must be managed to preserve their wilderness attributes so that they may be considered for such designation in the future. This interpretation, if accepted as correct, would result in all roadless areas being kept in "de facto" wilderness status indefinitely. Such a requirement would be detrimental to the orderly management of nonwilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act of 1974.

To eliminate any possible misunderstanding on this point, the bill provides that areas not designated as wilderness or for wilderness study need not be managed for the purpose of protecting their suitability for future wilderness designation pending revision of the initial plans. The intent is that these lands be managed for multiple uses in accordance with the land management plan.

The Forest Service already has statutory authority to manage roadless areas for multiple uses other than wilderness. The Committee wishes to make clear, however, that study of the wilderness option in future generations of "section 6" plans is required only for those lands that may be suited for wilderness designation at the time of the development of such future plans. During the lifetime of each generation of plans, then, the forest land and other resources can, in fact, be put to the uses that are authorized in the plan. In short, one plan will remain in effect until the second plan is implemented, and the forest will be managed in accordance with the plan that is in effect, even if such management may result in the land no longer being suited for wilderness.

Thus, it is likely that areas evaluated for wilderness suitability in one generation of plans may not physically qualify for wilderness consideration by the time the next generation of plans is prepared. For example, the Committee notes that many areas that were studied for wilderness in the RARE II, recommended for nonwilderness, and released administratively in April of 1979, may no longer qualify as suitable wilderness study areas as a result of approved multiple-use activities having been carried out.

Under this provision, it is the Committee's intent and understanding that the Forest Service may conduct a timber sale in a roadless area being managed for multiple-use purposes other than wilderness and not be challenged on the basis that the area will be spoiled for consideration as wilderness in a future planning cycle. Once into a second-generation plan, the Forest Service may, of course, manage a roadless area according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still qualify for possible wilderness designation at the time of the third-generation planning process, which is likely in many cases, the wilderness option for the area would be considered at that time under the requirements of NFMA. In short, the wilderness option must be considered in each future planning generation for all of the areas in each planning unit that still possess the required wilderness attributes. There is no requirement, however, that these attributes be preserved for the purpose of maintaining the suitability of the affected areas for future evaluation as wilderness in the planning process.

In the Committee's judgment, the Forest Service is not required to manage multiple-use lands in a "de facto" wilderness manner. Of course, the Forest Service can, if it determines such action appropriate, manage lands to preserve their natural undeveloped characteristics if the applicable plan calls for such management. Likewise, the Forest Service can, if through the land management planning process it determines such action appropriate, provide for other multiple uses on lands that have not been designated as wilderness or as wilderness study areas by Congress. The Forest Service should be able to manage all nonwilderness lands in the manner determined appropriate through the land management planning process.

However, the bill also provides that lands recommended for wilderness designation in future generations of land management plans must be managed to protest their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by NFMA, and other applicable law.

In arriving at this position, the Committee has carefully considered and balanced the wishes and concerns of many varied interest groups involved in this issue, and wishes to emphasize the vital importance of completing and implementing the forest plans in Virginia and ending the state of uncertainty over appropriate land management that now exists in the national forests.

In order to eliminate the land management uncertainty with regard to as much of the National Forest System land in Virginia as possible, the bill provides that the release and sufficiency provi-

sions of the bill also apply to those National Forest System roadless areas in Virginia that are less than 5,000 acres in size.

The Committee notes that the designation of an area as wilderness in the bill satisfies the requirements for wilderness study as may be directed by the Eastern Wilderness Act. This would be the situation with regard to the Mountain Lake Wilderness, Peters Mountain Wilderness, and the Ramseys Draft Wilderness areas. Likewise, the requirement for wilderness study of the Mill Creek Wilderness Study Area as designated by the Eastern Wilderness Act would be satisfied by the bill and that area would be released for management in accordance with the appropriate land management plan since it is not designated as a wilderness of wilderness study area by the bill.

No further statewide wilderness review

With regard to the possibility of the Forest Service undertaking future administrative reviews similar to RARE I and RARE II, since the National Forest Management Act of 1976 planning process is now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process, unless Congress expressly asks for additional evaluations through authorizing legislation. Therefore, the bill prohibits the Department of Agriculture from conducting any further statewide roadless area review and evaluation of National Forest System lands in Virginia for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System. This provision does not prohibit the Forest Service from considering the wilderness option during a normal plan revision when the entire State is covered by a single plan.

Committee Consideration

HEARING

On Wednesday, July 25, 1984, the Subcommittee on Soil and Water Conservation, Forestry, and Environment, chaired by Senator Roger Jepsen, held a hearing on S. 2805 and the House companion, H.R. 5121, relating to the establishment of wilderness areas in Virginia.

In his opening remarks, Senator Jepsen said that he appreciates and respects the different points of view on the amount of land to be designated as wilderness in the various States and hopes the hearing will help resolve these issues. He also noted that compromise release language worked out between the Senate and House has enabled several wilderness bills to be signed into law.

Congressional witnesses from the State of Virginia were Senators John W. Warner and Paul S. Trible, Jr., and Representatives James R. Olin and Frederick C. Boucher of the Sixth and Ninth Districts, respectively.

Senators Warner and Trible, sponsors of S. 2805, both testified in favor of the legislation saying it represented a balance between preserving portions of Virginia in their natural state and the need for economic development required by Virginia's citizens.

Congressmen Olin and Boucher testified in favor of the legislation and pointed out that S. 2805 contained basically identical language to the House-passed bill, H.R. 5121. With respect to the three significant differences between the bills, Messrs. Olin and Boucher expressed their support for the Senate provisions which would: (1) add 40 acres more than H.R. 5121 to the existing James River Face Wilderness Area; (2) clarify that Congress does not intend to create buffer zones around areas designated as wilderness; and (3) add a provision directing the Forest Service, in conjunction with the Environmental Protection Agency and the State of Virginia, to evaluate and report to Congress on the effects of the proposed industrial development site at Covington, Virginia, on air quality on the areas designated as wilderness study under the bill.

The members of the Virginia congressional delegation who testified before the subcommittee recommended S. 2805 and urged favorable consideration.

F. Dale Robertson, Associate Chief, Forest Service, testified for the Department of Agriculture. He pointed out the similarity in the bills except for the air quality study and buffer zone provisions in the Senate version.

Mr. Robertson stated that nine areas proposed for wilderness designated in S. 2805 and H.R. 5121 were recommended for wilderness in RARE II. The areas—Beartown, Little Dry Run, Lewis Fork, Little Wilson Creek, Kimberling Creek, Thunder Ridge, and Peters Mountain on the Jefferson National Forest; and Ramseys Draft and St. Marys on the George Washington National Forest—continue to be supported for wilderness designation by the Department of Agriculture. He said the tenth area proposed for wilderness, Mountain Lake, was recommended for further planning in RARE II. The Department can now support designation of the area as wilderness and further recommends that the 3,030 contiguous acres in West Virginia be included. The Department also favors adding a small amount of land, as proposed in the bills, to the James River Face Wilderness.

Mr. Robertson pointed out that the bills would designate four areas for wilderness study—Rough Mountain, Rich Hole, Barbours Creek, and Shawvers Run. The Department recommends that Rough Mountain and Rich Hole be designated as wilderness and Barbours Creek and Shawvers Run be released to users other than wilderness. He stated that all four areas have been adequately studied.

The Department also recommends that section 6(d) of S. 2805 relating to an air quality study be deleted. Mr. Robertson said the Department is opposed to spending taxpayers dollars to study the effects of a redesignation of an air quality class that is unlikely to occur.

Mr. Robertson pointed cut that five areas—Dolly Ann, Ramseys Draft Addition, Southern Massanutten, Devils Fork, and Mill Creek—that are released for uses other than wilderness by the bills, were identified for further planing in RARE II. The Department recommends that specific language be added to rescind Mill Creek's Wilderness Study Area status, as designated by the Eastern Wilderness Act, to clarify the congressional intent to release the area and terminate the earlier wilderness study requirement.

The Department supports the release language and recommends enactment of either bill, if amended as indicated.

Next to testify was a panel consisting of the Honorable George F. Allen, House of Delegates, Commonwealth of Virginia; Mr. Harry Nash, Augusta County Board of Supervisors, Staunton; Mr. Edward Clark, President, Virginia Wilderness Society, Waynesboro; Mr. Gerald Schuder, Sr., Chairman of the Board, Trout Unlimited, Waynesboro; Mr. David W. Levy, Chairman, Conservation Committee, Old Dominion Chapter, the Sierra Club, Charlottesville; Mr. David Cockerall, President, Council of Outdoor Adventure Education, Virginia Polytechnic Institute and State University, Blacksburg; and Mr. James Loesel, Chairman, Rockbridge Area Conservation Council, Lexington.

George F. Allen, who represents Albemarle and Nelson Counties of Virginia, expressed his support for S. 2805. He said the bill protects some of Virginia's wild natural areas in the mountains of western Virginia. Mr. Allen stated that there were misconceptions about the restrictions in a statutory wilderness area. He said the only restriction was that no motorized vehicle may be operated in wilderness area, except in certain emergencies. Foot and horse trails will be permitted. Mr. Allen also pointed out the importance of tourism to the economy of Virginia, and these designated areas will attract campers, hikers, hunters, and those who generally like to enjoy the natural beauty of wilderness.

Mr. Allen said S. 2805 is a benficial compromise worked out wisely and courageously by Senators Warner and Trible.

Harry Nash, a newly elected member of the Augusta County Board of Supervisors, spoke in favor of the legislation. He said that the men who have drawn up this legislation, to set aside these areas of Virginia for future generations, are men of vision. Mr. Nash believes this legislation will ensure bear and turkey habitat and a place to hunt them for years to come. With an increasing demand for timber, it will ensure mature oak forests necessary for them and other animals while allowing the Forest Service to manage other areas under a multiple-use concept. He asked support for this legislation so that future generations can enjoy what men of vision of the 1930's made possible for us to enjoy today.

Edward Clark stated that he wanted to express his enthusiastic support for S. 2805 and H.R. 5121. He felt the debate had been thorough and the airing of views complete and that is was now time to move forward with the issue.

Mr. Clark said that the opposition that was encountered was based on fear and misinformation about potential implications of wilderness designation. He urged the Committee to take expeditious action to have this measure signed into law.

Gerald Schuder testified in support of S. 2805. He stated the actual conception of the Virginia wilderness bill began in the spring of 1973. Mr. Schuder said the leadership of the Virginia wilderness movement believed a meaningful wilderness bill would have to involve all individuals, organizations, governments, agencies, and corporations. He said a key factor in the selection process was the RARE II analysis undertaken by the U.S. Forest Service. He stated that all of the 11 wilderness areas in the present bill were recommended for wilderness status by the Forest Service and

of the 4 wilderness study areas in the bill, 2 were recommened for wilderness.

He said the Coalition for Virginia Wilderness believes that the areas recommended in S. 2805 meet every test for inclusion in the wilderness system and that no significant economic values are sacrificed by preserving these areas. Mr. Schuder noted the broad-based consensus and support enjoyed by the Virginia wilderness bill and urged its favorable consideration.

David W. Levy expressed his organization's support for S. 2805, which he believes is a compromise to accommodate the diversity of public interests involved. The Sierra Club agrees with the Department of Agriculture that the West Virginia portion of the Mountain Lake area in the Jefferson National Forest be designated as wilderness. Mr. Levy stated that the Sierra Club was satisfied with the provisions in S. 2805 dealing with release language, the air quality impact study mandated in the bill, and buffer zones. The Sierra Club urged expeditious action on the legislation.

David Cockrell testified to the educational benefits that accrue from wilderness. He also pointed out the employment opportunities made available to those in the teaching profession. Mr. Cockrell said that the Virginia Council of Outdoor Adventure Education regards the bill as a considerable compromise of what began as a much larger list of roadless areas. He supported the additional acreage to the James River Face Wilderness in S. 2805, and found no objection to the call for an air quality study nor to the clarification concerning wilderness buffer zones.

James E. Loesel expressed his organization's support for S. 2805 but pointed out that their support for wilderness designation came only after careful study of the facts. He stated that the James River Face Wilderness was the only national forest wilderness in the State of Virginia and welcomed the addition of other selected areas. Mr. Loesel expressed the view that fear over reclassification of air quality standards is without substance. He urged speedy passage of the bill.

Senator Warner asked, as a general question to all members of the panel, if there were any changes they wished to suggest to the pending bill. All members of the panel responded in the negative.

The final panel to testify consisted of the Honorable William T. Wilson, House of Delegates, Commonwealth of Virginia, Covington; Jack Hammond, Plant Manager, Bleached Board Division, Westvaco Corporation Covington; Thomas R. Long, Vice President and General Counsel, Westvaco Corporation, New York, New York; Keith Gary, Off-Road Activities Coordinator, Virginia Four-Wheel Drive Association, Richmond, and David L. Hock, Member, Board of Directors, Four-Wheel Drive Association, Richmond; Lester L. Cherry, Executive Vice President, Greater Alleghany Highlands, Chamber of Commerce, Covington; and Cecil L. Boggs, Jr., President, Virginia Bear Hunters Association, Waynesboro.

William Wilson expressed the fear of many of his constituents that wilderness areas may be upgraded from Class II to Class I air quality standards and, if that happens, the wilderness areas now being proposed near the Covington, Virginia, area would someday have a detrimental impact on the area's economic development. Mr. Wilson requested that S. 2805 be amended to include the two

areas in Augusta County that would be designated by the bill as wilderness as part of the land to be studied under section 6(d) of the bill.

Jack Hammond testified for Westvaco Corporation in partial opposition to S. 2805. Mr. Hammond stated that while members of the Virginia congresssional delegation express their opposition to Class I air quality redesignation for wilderness areas, their successors may not share their views. Further, the Governor of Virginia could selectively redesignate any area to Class I air quality status. Mr. Long expanded on Westvaco's fears that a redesignation of the air quality status of wilderness areas is possible and the impact it would have on Covington. He suggested that S. 2805 be amended to include Thunder Ridge, Mountain Lake, Peters Mountain, St. Mary's River, and Ramseys Draft in a further study category. He said that further study of these areas would create a situation where everyone wins and no one loses.

Mr. Long stated opposition to section 5(b)(1) of S. 2805 which bars any judicial review of the RARE II final environmental impact statement, thereby denying Virginia citizens the legal remedies accorded California citizens. Mr. Long further stated that legislative action should be initiated to provide a long-term solution to the linkage between wilderness and the Clean Air Act. Mr. Hood was in agreement with the position taken by Mr. Gary.

Keith Gary testified that his organization was opposed to S. 2805 and H.R. 5121, stating that the legislation is not in the best interests of the majority of users of the national forests. Mr. Gary suggested the multiple-use concept is the least costly and most beneficial way to conserve and enjoy the national forests.

Lester Cherry said he was speaking for the citizens of Alleghany County, Virginia, in opposition to S. 2805. Mr. Cherry repeated the fears of other members of the panel regarding the linkage between wilderness and the Clean Air Act. He questioned why the bill could not have language to alleviate the possibility of air quality redesignation.

Cecil Boggs spoke in opposition to additional wilderness areas. He expressed the fear that more wilderness would pose a future threat to hunting, and senior and disabled citizens would be denied reasonable access to the land.

COMMITTEE MARKUP

The Committee met in open session on Thursday, September 13, 1984, to consider S. 2805.

In his opening statement, Chairman Helms noted that the Virginia wilderness bill was just one of six bills to be considered by the Committee that would add new areas to the National Wilderness Preservation System. Consideration of these bills, together with the four wilderness bills considered by the Committee and signed into law earlier this year, indicates that the Committee takes seriously its responsibility to provide clear direction for forestry policy regarding wilderness and other matters. Chairman Helms noted that the preservation of these additional wilderness areas will leave a legacy that will provide unlimited opportunity for primitive recreation and enjoyment for those choosing to visit the areas.

Senator Huddleston questioned the Forest Service on their efforts to obtain the privately-held mineral rights on existing wilderness areas and whether the exercise of those rights is a growing problem. Douglas MacCleery, Deputy Assistant Secretary for Natural Resources and Environment of the Department of Agriculture, responded that since most of the national forest lands in the eastern United States were acquired from private owners who retained the subsurface mineral rights, it would be very expensive to acquire all of those rights, and the Forest Service does not buy those rights when it makes new acquisitions. The Forest Service deals with this issue on a case-by-case basis, and if a private owner elects to exercise his mineral rights, the Forest Service looks at the impact it might have on the wilderness value and makes a decision as how best to proceed. This factor is also taken into consideration when the Department makes recommendations on which areas are appropriate for wilderness designation.

After a brief explanation of the bill, Chairman Helms, on behalf of Senator Warner and Trible, offered an amendment that would make technical and clerical changes in the bill. The amendment was adopted by voice vote.

By voice vote, the Committee ordered S. 2805 reported, as amended, with a recommendation that it pass.

Section-by-Section Analysis

Short title

Section 1 provides that the bill may be cited as the "Virginia Wilderness Act of 1984".

Designation of wilderness areas

Section 2 designates certain National Forest System lands in the State of Virginia, totaling approximately 55,984 acres, as wilderness areas and as components of the National Wilderness Preservation System as follows:

(1) approximately 6,375 acres in the Jefferson National Forest, as generally depicted on a map entitled "Beartown Wilderness—Proposed", dated February 1984, which shall be known as the Beartown Wilderness;

(2) approximately 5,580 acres in the Jefferson National Forest, as generally depicted on a map entitled "Kimberling Creek Wilderness—Proposed", dated February 1984, which shall be known as the Kimberling Creek Wilderness;

(3) approximately 5,730 acres in the Jefferson National Forest, as generally depicted on a map entitled "Lewis Fork Wilderness—Proposed", dated February 1984, which shall be known as the Lewis Fork Wilderness;

(4) approximately 3,400 acres in the Jefferson National Forest, as generally depicted on a map entitled "Little Dry Run Wilderness—Proposed", dated February 1984, which shall be known as the Little Dry Run Wilderness;

(5) approximately 3,855 acres in the Jefferson National Forest, as generally depicted on a map entitled "Little Wilson Creek Wilderness—Proposed", dated February 1984, which shall be known as the Little Wilson Creek Wilderness;

(6) approximately 8,253 acres in the Jefferson National Forest, as generally depicted on a map entitled "Mountain Lake Wilderness—Proposed", dated February 1984, which shall be known as the Mountain Lake Wilderness;

(7) approximately 3,326 acres in the Jefferson National Forest, as generally depicted on a map entitled "Peters Mountain Wilderness—Proposed", dated February 1984, which shall be known as the Peters Mountain Wilderness;

(8) approximately 2,450 acres in the Jefferson National Forest, as generally depicted on a map entitled "Thunder Ridge Wilderness—Proposed", dated February 1984, which shall be known as the Thunder Ridge Wilderness;

(9) approximately 200 acres in the Jefferson National Forest, as generally depicted on a map entitled "James River Face Wilderness Addition—Proposed", dated September 1984, which are incorporated in and deemed to be part of the James River Face Wilderness as designated by the Eastern Wilderness Act (Public Law 93-622);

(10) approximately 6,725 acres in the George Washington National Forest, as generally depicted on a map entitled "Ramseys Draft Wilderness—Proposed", dated January 1984, which shall be known as the Ramseys Draft Wilderness; and

(11) approximately 10,090 acres in the George Washington National Forest, as generally depicted on a map entitled "Saint Mary's Wilderness—Proposed", dated January 1984, which shall be known as the Saint Mary's Wilderness.

Maps and descriptions

Section 3 provides that, as soon as practicable after enactment of the bill, the Secretary of Agriculture is required to file maps and legal descriptions of the areas designated as wilderness in the bill with the House Committees on Agriculture and on Interior and Insular Affairs and with the Senate Committee on Agriculture, Nutrition, and Forestry. In addition, this section provides that the maps and descriptions shall have the same force and effect as if included in the bill, except that correction of clerical and typographical errors may be made by the Secretary. The maps and descriptions must be on file and available for public inspection in the Office of the Chief of the Forest Service.

Administration of wilderness

Section 4 requires that, subject to valid existing rights, each of the areas designated as wilderness by the bill be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act, except that any reference in those provisions to the effective date of that Act would be deemed to be a reference to the date of enactment of the bill.

Effect of RARE II

Section 5(a) contains congressional findings to the effect that the Department of agriculture has completed the second roadless area review and evaluation (RARE II) and that Congress has made its own evaluation of National Forest System roadless areas in Virgin-

ia, including reviewing the environmental impacts associated with alternative uses of these areas.

Section 5(b) provides that Congress determines and directs, with respect to the National Forest System lands in Virginia, that--

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Virginia, such final environmental statement shall not be subject to judicial review;

(2) to the extent such lands were reviewed in the RARE II or otherwise referenced in section 5(d) of the bill, except those lands designated for wilderness study, the RARE II review and evaluation or reference shall be considered to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System for the purposes of the initial land management plans required by law. Also, the Department shall not be required to review the wilderness option for such lands prior to revision of the initial land management plans but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a 10-year cycle, or at least every 15 years, unless, prior to that time, the Secretary finds that conditions in a unit have significantly changed;

(3) to the extent such lands were reviewed in the RARE II final environmental statement, or otherwise referenced in the bill and not designated as wilderness or for wilderness study, such nondesignated lands shall be managed for multiple-use purposes in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, except that such lands need not be managed to protect their suitability for wilderness designation prior to or during revision of the initial land managemet plans;

(4) in the event that revised land management plans are implemented, areas not recommended for wilderness designation in any such revisions need not be managed to protect their suitability for wilderness designation prior to or during revision of such plans, except as otherwise provided for in section 6(c) of the bill. Areas recommended for wilderness designation shall be managed to protect their suitability for wilderness designation as may be required by applicable law; and

(5) unless expressly authorized by Congress, the Department shall not conduct any additional statewide roadless area review and evaluation of such lands for the purpose of determining the suitability of any additional areas for inclusion in the National Wilderness Preservation System.

Section 5(c) provides that, as used in the bill and in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, the term "revision" does not include an "amendment" to a plan.

Section 5(d) provides that the release provisions of the section also apply to National Forest System roadless lands in Virginia that are less than 5,000 acres in size.

Designation of wilderness study areas

Section 6(a) designates 4 wilderness study areas in Virginia (totaling approximately 25,075 acres). The designated wilderness study areas are as follows;

(1) approximately 9,300 acres in the George Washington National Forest, as generally depicted on a map entitled "Rough Mountain Wilderness Study Area—Proposed", dated January 1984, which shall be known as the Rough Mountain Widerness Study Area;

(2) approximately 5,600 acres in the George Washington National Forest, as generally depicted on a map entitled "Rich Hole Wilderness Study Area—Proposed", dated January 1984, which shall be known as the Rich Hole Wilderness Study Area;

(3) approximately 5,875 acres in the Jefferson National Forest, as generally depicted on a map entitled "Barbours Creek Wilderness Study Area—Proposed", dated February 1984, which shall be known as the Barbours Creek Wilderness Study Area; and

(4) approximately 4,300 acres in the Jefferson National Forest, as generally depicted on a map entitled "Shawvers Run Wilderness Study Area—Proposed", dated February 1984, which shall be known as the Shawvers Run Wilderness Study Area.

Section 6(b) requires the Secretary of Agriculture, in carrying out the review required under this section, to give public notice at least 60 days in advance of any hearing or other public meeting concerning a study area.

Section 6(c) provides that, subject to valid existing rights, the Secretary shall administer the wilderness study areas designated in this section so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System until Congress determines otherwise.

Section 6(d) requires the Secretary, in consultation with the Environmental Protection Agency and the State of Virginia, to evaluate and report to Congress within 2 years after the date of enactment of the bill on the effects of the proposed industrial development site at Covington, Virginia, on air quality on the areas designated for wildrness study by the bill. The Secretary is to provide an interim report to the appropriate committees of Congress within 1 year after enactment of the bill.

Buffer zones

Section 7 provides that Congress does not intend that designation of wilderness areas in Virginia lead to the creation of protective perimeters or buffer zones around each wilderness area. The section further provides that the fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Administration Views

On August 6, 1984, Chairman Helms received a report from Secretary of Agriculture John R. Block expressing the Department's

support for the enactment of S. 2805 if amended as suggested in the report. This report, along with the portion of the July 25, 1984, testimony to the Subcommittee on Soil and Water Conservation, Forestry and Environment presented by Mr. F. Dale Robertson, Associate Chief of the Forest Service, on S. 2805 follow:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, August 16, 1984.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We would like to offer our view on S. 2805, a bill "To designate certain National Forest System lands in the State of Virginia as wilderness, and for other purposes."

The Department of Agriculture recommends that the bill be enacted if amended as suggested herein.

S. 2805 would designate 10 additional wildernesses, totaling approximately 56,000 acres, expand one existing wilderness by 200 acres, designate four areas, totaling approximately 25,000 acres, as wilderness study areas, and would provide for an air quality study near Covington, Virginia.

Nine of the areas proposed for wilderness designation in S. 2805 were recommended for wilderness in RARE II. These areas are: Beartown, Little Dry Run, Lewis Fork, Little Wilson, Kimberling, Thunder Ridge, and Peters Mountain on the Jefferson National Forest; and Ramseys Draft and St. Marys on the George Washington National Forest. We continue to support wilderness designation for these areas.

The tenth area proposed for designation as wilderness in S. 2805 is Mountain Lake. This area was recommended for further planning in RARE II and was also identified as a wilderness study area in the Eastern Wilderness Act of 1975. Extensive study and public involvement have been completed on this area. The study is sufficiently far along that we can support designation of the area as wilderness. Only limited resource values would be foregone by the proposed wilderness designation. Only the 8,253 acres in Virginia are included in S. 2805. We recommend inclusion of the contiguous 3,030 acres in West Virginia.

The bill proposes adding an additional 200 acres to the James River Face Wilderness. We do not object to this addition, since it is logical to manage the area as a part of the existing wilderness.

S. 2805 would designate Rough Mountain, Rich Hole, Barbours Creek, and Shawvers Run for further study as to their wilderness suitability. Rough Mountain and Rich Hole were recommended for wilderness in RARE II. We recommend that both areas be designated wilderness because we see little value in studying these areas further.

Barbours Creek and Shawvers Run were evaluated in RARE II as the Barbours Creek area. They were designated as nonwilderness in RARE II because of extensive management activities in the area. Oil and gas leases cover the entire area. Extensive timber harvest has taken place in the area and additional sales are planned. These areas have been adequately studied. We do not rec-

ommend further study and believe the area should be released to uses other than wilderness by this bill.

We recommend that section 6(d) in S. 2805 be deleted. This section is intended to require determination of what restrictions would be placed on industrial development in Covington, Virginia, if the wilderness study areas in the bill became wilderness and were redesignated from Class II to Class I air quality areas. When an area is designated wilderness, the air quality class does not change. It is possible for the State to redesignate these areas to Class I by following the procedures specified in the Clean Air Act as amended, but in our opinion this change is not likely. We do not think it is appropriate to spend taxpayers dollars to study a redesignation that is unlikely to occur. If not amended, the costs of implementing the air quality proposed would be between $1.5 and $2 million.

Five areas—Dolly Ann, Ramseys Draft Addition, Southern Massanutten, Devils Fork and Mill Creek—were identified for further planning in RARE II. They would be released for uses other than wilderness by this bill. Mill Creek was also identified as wilderness study areas in the Eastern Wilderness Act of 1975. We recommend that specific language be added to S. 2805 to rescind Mill Creek's Wilderness Study Area status.

We estimate that surveying, planning, and related activities necessary to implement the bill, if amended as we suggest, would be approximately $200,000 over the next 5 years.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administrative's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

STATEMENT OF F. DALE ROBERTSON, ASSOCIATE CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

BEFORE THE SUBCOMMITTEE ON SOIL AND WATER CONSERVATION, FORESTRY, AND ENVIRONMENT OF THE SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Concerning S. 2773, S. 2805, H.R. 5121 and S. 2808, July 25, 1984

Mr. Chairman and members of the committee: It is a pleasure to join you here today as you consider several bills that would designate portions of the National Forests in Georgia, Mississippi, and Virginia as components of the National Wilderness Preservation System.

S. 2805/H.R. 5121—"The Virginia Wilderness Act of 1984"

S. 2805 and H.R. 5121 are the same except for the air quality study provision and buffer provision in the Senate bill.

These bills would designate 10 additional wildernesses for approximately 56,000 acres, expand one existing wilderness by approximately 200 acres, and designate four areas, totaling 25,075 acres, as wilderness study areas.

The Department of Agriculture recommends enactment of either bill if amended as indicated in my testimony.

Currently, there are two wilderness areas in Virginia—one within Shenandoah National Park administered by the National Park Service and James River Face administered by the Forest Service.

Nine of the areas proposed for wilderness designation in S. 2805 and H.R. 5121 were recommended for wilderness in RARE II. These areas are: Beartown, Little Dry Run, Lewis Fork, Little Wilson, Kimberling, Thunder Ridge, and Peters Mountain on the Jefferson National Forest; and Ramseys Draft and St. Marys on the George Washington National Forest. We continue to support wilderness designation for these areas.

The tenth area proposed for designation as wilderness in the bills is Mountain Lake. This area was recommended for further planning in RARE II and was also identified as a wilderness study area in the Eastern Wilderness Act. Extensive study and public involvement have been completed on this area. The study is sufficiently far along that we can support designation of the area as wilderness since there are only limited resource values that would be foregone by wilderness designation. Only the 8,253 acres in Virginia are included in S. 2805 and H.R. 5121. We recommend inclusion of the contiguous 3,030 acres in West Virginia.

The bills propose adding a small amount of land to the James River Face Wilderness. We do not object to this addition, since it is logical to manage this land as a part of the existing wilderness.

H.R. 5121 and S. 2805 would designate Rough Mountain, Rich Hole, Barbours Creek, and Shawvers Run for wilderness study. Rough Mountain and Rich Hole were recommended for wilderness in RARE II. We recommend that both areas be designated wilderness because we see little value in studying these areas further.

Barbours Creek and Shawvers Run were evaluated in RARE II as the Barbours Creek area. They were recommended as nonwilderness in RARE II because of extensive management activities in the area. There are currently oil and gas leases covering the entire area. Extensive timber harvest has taken place in the area and additional sales are planned. These areas have been adequately studied. We do not support further study and believe the area should be released to uses other than wilderness by this bill.

We recommend that section 6(d) in S. 2805 be deleted. This section is intended to require determination of what restrictions would be placed on industrial development in Covington, Virginia, if the wilderness study areas in the bill became wilderness and were redesignated from Class II to Class I air quality areas. When an area is designated wilderness, the air quality class does not change. It is possible for the State to redesignate these areas to Class I by following the procedures specified in the Clean Air Act as amended, but in our opinion this change is not likely. We do not think it is appropriate to spend taxpayers dollars to study a redesignation that is unlikely to occur.

Five areas—Dolly Ann, Ramseys Draft Addition, Southern Massanutten, Devils Fork and Mill Creek—were identified for further planning in RARE II. They would be released for uses other than wilderness by this bill. Mill Creek was also identified as a wilderness study area in the Eastern Wilderness Act of 1975. We recommend that specific language be added to S. 2805 and H.R. 5121 to

rescind Mill Creek's Wilderness Study Area status to clarify the Congressional intent to release the area and terminate the earlier wilderness study requirement.

We support the release language in both bills.

Cost Estimate

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that the enactment of S. 2805 would result in a cost to the Federal Government of approximately $200,000 over the next 5 fiscal years for surveying, planning, and related activities to implement the wilderness designations, and $600,000 over fiscal years 1985 and 1986 to evaluate the effects of a proposed industrial development and site at Covington, Virginia, on air quality in the areas designated for wilderness study by the bill. In addition, receipts from the sale of timber could be reduced by less than $35,000 per year. Small savings in land management planning costs over the next 3 years will result from certain areas being released from further wilderness review during the period of the initial land management plans.

In accordance with the Congressional Budget Act of 1974, the Congressional Budget Office prepared the following cost estimate, which is consistent with the Committee's cost estimate:

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 18, 1984.

Hon. Jesse A. Helms,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, 328A Russell Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 2805, the Virginia Wilderness Act of 1984, as reported by the Senate Committee on Agriculture, Nutrition and Forestry, September 13, 1984.

This bill adds 55,984 acres of National Forest System lands in Virginia to the national wilderness preservation system, and designates an additional 25,075 acres of land for wilderness review. Based on information from the National Forest Service (NFS), we estimate that additional costs to the federal government for surveying, planning and related activities necessary to implement these withdrawals will be approximately $200,000 over the five fiscal years beginning with 1985.

The bill also requires the Secretary of Agriculture, in consultation with the Environmental Protection Agency and the State of Virginia, to evaluate the effects of the proposed industrial development site of Covington, Virginia, on air quality in the areas designated for wilderness study by this act. Based on information from the NFS, CBO estimates that the study will cost the federal government a total of approximately $600,000 over fiscal years 1985 and 1986, if the parties involved in the Covington development provide the NFS with certain necessary information. If not, the cost could be higher.

According to the provisions of the National Wilderness Preservation System Act, all timber in areas designated as units of the national wilderness preservation system is removed from the timber

base of the national forest in which it is located. This results in a reduction of the annual potential yield of the forest. The annual loss of timber receipts resulting from this bill is expected to be less than $35,000 per year.

Lands designated as wilderness are also withdrawn from mineral activity under the terms of the National Wilderness Preservation Act. This bill is not expected to result in any significant loss of mineral receipts, because little mineral potential has been found in lands involved, except for those in areas where the resources can be removed under valid existing rights.

All roadless areas in national forests not designated as wilderness or expressly excluded from further review by an act of the Congress are currently being reevaluated for their suitability for inclusion in the national wilderness preservation system. S. 2805 removes from this review all roadless areas in Virginia included in the Department of Agriculture's second Roadless Area Review and Evaluation (RARE II) during the period of the initial management plan. This will result in a small savings in land management planning costs over the next three years.

Enactment of this bill would not significantly affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2805. The bill would designate certain lands in the State of Virginia as components of the National Wilderness Preservation System. It would also designate certain lands in that State as wilderness study areas.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

Subject to valid existing rights, the Wilderness Act prohibits future harvesting of timber and future entry for mineral extraction on lands included in the National Wilderness Preservation System. Enactment of the bill will result in approximately 55,984 acres being placed in the National Wilderness Preservation System, and approximately 25,075 acres being designated as wilderness study areas, and, thereby, will restrict uses other than wilderness on such land.

Wilderness designation will result in restricting private individuals' motorized use of public lands. Activities which have previously occurred, such as firewood gathering, motorized access for hunting and fishing, and trail bike riding, will be terminated.

A wilderness permit may be required of individuals using certain wilderness areas and, therefore, limited personal information would be collected in administering the program. It is anticipated that the impact on personal privacy would be minimal.

The bill will not result in any significant additional paperwork or recordkeeping requirements.

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Calendar No. 1194

98TH CONGRESS
2d Session

SENATE

REPORT
98-613

MISSISSIPPI NATIONAL FOREST WILDERNESS ACT OF 1984

SEPTEMBER 18 (legislative day, SEPTEMBER 17), 1984.—Ordered to be printed

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. 2808]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 2808) to designate certain National Forest System lands in the State of Mississippi as wilderness, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

SHORT EXPLANATION

The bill, as reported by the Committee, would designate 2 areas (totaling approximately 5,500 acres) in the national forests in the State of Mississippi as wilderness areas and as components of the National Wilderness Preservation System. The bill provides for the Secretary of Agriculture to administer the areas designated as wilderness by the bill in accordance with the provisions of the Wilderness Act, to promptly file maps and legal descriptions of the designated areas with appropriate committees of Congress, and to make the maps and descriptions available for public inspection.

Further, the bill contains language to ensure that certain National Forest System lands in the State of Mississippi not designated as wilderness by the bill are released for such uses as are deemed appropriate through the national forest management planning process. The bill also prohibits, unless expressly authorized by Congress, any further statewide roadless area review and evaluation of National Forest System lands in Mississippi for purposes of considering the wilderness suitability of such lands.

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S163-13

COMMITTEE AMENDMENT

The Committee amendment to the bill strikes all after the enacting clause and inserts in lieu thereof an amendment in the nature of a substitute that is technical in nature, making clarifying and other clerical changes.

PURPOSE AND NEED FOR LEGISLATION

S. 2808 has as its purpose the designation of two new wilderness areas located in the southeastern part of the State of Mississippi. The legislation is the result of a review by the U.S. Department of Agriculture conducted during the period of 1977 through 1979 and termed the second roadless area review and evaluation (RARE II). That study examined the lands of the National Forest Sytem nationwide and, through the final environmental impact statement issued by the Department of Agriculture in January 1979, recommended designation of certain of these lands as wilderness, including the two areas that would be designated by S. 2808. Since 1979, many groups and citizens in Mississippi and across the Nation have supported wilderness designation for these two areas. Currently, there are no wilderness areas in the State of Mississippi. The bill would also ensure that national forest lands not designated as wilderness are released for such uses as are determined appropriate through the national forest land management planning process.

WILDERNESS DESIGNATIONS

The combined acreage of the wilderness areas that would be established is approximately 5,500 acres. Both areas are generally recognized as having outstanding opportunities for solitude and unconfined recreation. Water is a major factor at both areas. The areas are excellent representatives of the outer coastal plain ecosystem.

The two areas would become part of the National Wilderness Preservation System. They would be managed by the U.S. Forest Service under provisions of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131–1136).

A description of the wilderness proposals of the bill follows:

Black Creek Wilderness

The proposed 4,500-acre wilderness is located in Perry County, Mississippi, and includes 5 miles of Black Creek which is being studied by the Forest Service for possible designation under the National Wild and Scenic River System. The area also includes Beaverdam Creek which is a narrow winding tree-covered stream.

The Black Creek area is traversed by the Black Creek hiking trail. That trail provides an excellent means of obtaining ground access into the wilderness and is one of the best places in Mississippi for backpacking and related recreational experiences. Because of the accessibility of the area to much of Mississippi and parts of Louisiana, it is heavily utilized by recreationists.

Leaf Wilderness

This 940-acre proposal is located in Greene County and is an outstanding wilderness in that it possesses outstanding natural characteristics. The area is covered with verdant stands of bottomland hardwood forest bordered by contrasting upland forest types on the

moist slopes and bluffs that border the swamp. The entire area is a mosaic of creeks, sloughs, bluffs, and lakes. Its botanical diversity is remarkable and designation of this area as wilderness would ensure that those seeking a truly different and primative wilderness experience will be able to find one.

Because of the extensive variety of hardwood and pine timber in these areas a valuable and diverse habitat is provided for wildlife and bird species.

SUFFICIENCY AND RELEASE LANGUAGE

Background

In 1924, when the U.S. Forest Service decided it should manage wilderness as one of the many uses to be made of the National Forest System, it established the Gila Wilderness Reserve in the Gila National Forest in New Mexico. The purpose was to keep some parts of the Nation's forests in the condition in which mankind had found them, both as scientific benchmarks against which civilization's works could be compared and as recreational refuges for people who wanted to temporarily get away from the stresses of civilization. During the next 40 years, the Forest Service administratively established more of these areas, mostly in the West, from which evidence of human technology and development are substantially excluded.

In 1964, this wilderness concept became national policy when Congress passed the Wilderness Act and established the National Wilderness Preservation System. That System incorporated the 9.1 million acres that had been set aside by the Forest Service over the previous 4 decades. Generally, the Wilderness Act specifies that within wilderness areas there will be no roads, no timber harvesting, no structures or installations, and no use of motor boats or landing of aircraft. Each wilderness area was to be an area where man was a visitor who did not remain.

The Wilderness Act gave the Forest Service 10 years to complete studies of the national forest primitive areas—areas temporarily reserved from access pending study of their suitability for wilderness designation. In addition, Congress provided that no future wilderness could be created in the national forests, except by Act of Congress. However, Congress did not preclude the management of lands within the National Forest System for primitive, roadless recreation, within the concept of multiple-use management.

As the Forest Service began its review of primitive areas within the national forests in the late 1960's to determine the suitability for wilderness designation of specific tracts, a number of problems arose in connection with established timber management plans. In many forests, after new sales were advertised, administrative protests were filed, charging that a particular sale would violate the statutory concept of multiple use. Usually, the allegation was that the proposed sale was in an area that should be designated as wilderness or that should be devoted to unstructured recreation with no harvesting of timber. As timber sales became tied up in such appeals and the orderly management of the national forests disintegrated, the Forest Service instituted the first roadless area

review and evaluation (RARE I) as the planning process to resolve the problems.

By 1973, RARE I had resulted in the selection of 274 wilderness study areas containing approximately 12.3 million acres. The other roadless areas in the RARE I inventory, having been considered and rejected for possible wilderness designation, were not protected as wilderness and remained in their full multiple-use status.

The National Environmental Policy Act (NEPA) became law on January 1, 1970. It required the Executive Branch, before making any major decision having a significant impact on the human environment, to prepare an assessment of the environmental impact of the proposed action. The NEPA was the basis of a lawsuit filed in 1972, as the RARE I process was nearing completion, that charged that the Forest Service must prepare environmental impact statements on roadless areas that were supposedly returned to multiple-use management. The Federal District Court for the Northern District of California agreed that the agency was subject to the decisionmaking process prescribed by NEPA, and all development activities on the roadless areas were stopped. See *Sierra Club* v. *Butz,* Civ. No. 72-1445-SC (N.D. Cal. 1972) 3 Environmental Law Reporter 20071.

As a result of restricted sources of timber supplies, tremendous pressures were placed on the remaining National Forest System lands that remained open to timber harvesting. In some forests, timber sale levels dropped dramatically below the allowable cuts. In other forests, timber sale levels were maintained, but sales were concentrated on lands outside the RARE I roadless areas. In these forests, the concentration of sales at the full sales volume on a limited area produced fears that these available areas would be overcut to the detriment of land and watersheds.

It was obvious that a remedy was needed for this situation, and the Forest Service decided that a faster planning process was the answer. Thus, the second roadless area review and evaluation (RARE II) was formulated to expedite the planning process for roadless areas. RARE II began in June 1977 and was intended to survey the roadless and undeveloped areas within the National Forest System and to distinguish areas suitable for wilderness designation from those most appropriate for other uses. The areas found suitable for wilderness would be recommended for addition to the National Wilderness Preservation System through congressional action. The remaining roadless lands would be allocated to nonwilderness uses determined under the multiple-use planning process, or allocated to further study.

On April 16, 1979, President Carter made final recommendations to Congress based on the review of 2,919 identified roadless areas encompassing 62 million acres in the National Forest System. The Administration recommended that wilderness designation be given to approximately 15.1 million acres of the original 62-million acre roadless inventory. Another 10.8 million acres of roadless lands were determined to require further planning before decisions were made on their future management. The balance of the areas, which totaled about 36 million acres, were allotted to nonwilderness, multiple-use management.

Much litigation has occurred since the RARE II recommendations. This has had a direct bearing on congressional consideration of wilderness legislation. In June 1979, the State of California challenged the RARE II wilderness and nonwilderness allocations on National Forest System lands in that State. *Califonia* v. *Bergland,* 483 F. Supp 465 (E.D. Cal. 1980). The State and various environmental organizations which joined the lawsuit claimed that the RARE II final environmental impact statement was legally flawed. On January 8, 1980, the Federal district court agreed with the State's position, finding that the environmental statement for RARE II was deficient under the provisions of the National Environmental Policy Act. The Court ruled that a more site-specific analysis of wilderness qualities was required for 46 of the areas allocated for nonwilderness. Additionally, the Court found flaws in the RARE II analysis process. As a result, the Court enjoined any development in the 46 disputed areas, pending preparation of an adequate environmental impact statement. The major points of the district court ruling were affirmed by the Ninth Circuit Court of Appeals. *California* v. *Block,* 690 F.2d 753 (9th Cir. 1982).

The ruling by the Court of Appeals that the RARE II environmental impact statement was deficient has a significant impact on Forest Service activities. Although the decision applied specifically only to the 46 roadless areas in California, it was binding on other Federal district courts, in the Ninth Circuit (comprising the States of California, Oregon, Washington, Idaho, Montana, Nevada, Arizona, Alaska, and Hawaii) and could be cited in States outside the Ninth Circuit's jurisdiction. The reasoning of the decision produced uncertainty regarding the RARE II study for other States. Management of roadless areas not designated as wilderness is subject to challenge through administrative appeals and lawsuits. In fact, such challenges have occurred. There have been three lawsuits filed in the Northwest that rely extensively on *California* v. *Block.* In *Earth First* v. *Block* (Civil No. 83-6298-ME-RE, D. Oreg.), the United States District Court for the District of Oregon enjoined the Forest Service from taking or permitting any action which would be inconsistent with the wilderness character of a roadless area in Oregon until the requirements of *California* v. *Block* and the NEPA have been met. Similarly, in *Kettle Range Conservation Group* v. *Block* (Civil No. C-83-590-JLQ, E.D. Wash.), the Forest Service was enjoined from taking or permitting any action which will change the wilderness characteristics of four roadless areas in Washington. In December 1983, the Oregon Natural Resources Council brought suit against the Forest Service in an attempt to enjoin any activity which would impair the wilderness characteristics of approximately 2.25 million acres of roadless lands in Oregon until the requirements of NEPA have been met. That suit is pending. *Oregon Natural Resources Council* v. *Block,* Civil No. 83-1902, D. Oreg.

In February 1983, Assistant Secretary of Agriculture John B. Crowell, Jr., announced that all roadless areas studies for wilderness potential during RARE II would be subject to reevaluation. This reevaluation was to be done as a part of the National Forest System land management planning process then underway for 120

national forest planning units and scheduled for completion in 1985.

The desire to avoid further wilderness study and to preclude litigation directed at stopping the continuation of management activities on roadless areas led to a search for a legislative solution. Provisions termed "sufficiency" and "release" leanguage were the outcome of that search. Such language has appeared in legislation designating wilderness areas in Colorado, New Mexico, Alaska, Missouri, West Virginia, and Indiana. That language, which was generally patterned after the Colorado wilderness bill, continued to trouble a number of affected industry groups, and in an effort to address their concerns, Congress developed and agreed on a new version of the so-called "release" language, which is included in the bill.

The status of National Forest System areas designated for further planning by RARE II and lying east of the 100th meridian was also placed in doubt by a case origninating in North Carolina. The Eastern Wilderness Act designated certain National Forest System lands as wilderness and designated other lands as wilderness study areas. That Act directed the Secretary of Agriculture to review the study areas for their suitability or nonsuitability for wilderness designation and to make recommendations to the President, including recommendations for wilderness study areas. In *Southern Appalachian Multiple Use Council* v. *Bergland,* (No. A-C-80-1, W.D. N.C.), a Federal district court ruled, in relying on the Eastern Wilderness Act, that the Secretary had no authority to administratively designate "further planning" areas (and thereby administratively withhold any management activities in the area pending the completion of the study and determination of the area's status), but only to *recommend* areas to be designated as wilderness study areas. The court also ruled that the Secretary could manage the areas recommended so as not to impair their suitability for wilderness, pending congressional action. The ruling had an effect on the land management planning process on eastern national forests (those affected by the provisions of the Eastern Wilderness Act) insofar as the evaluation of areas for wilderness suitability is concerned. Under the court's ruling, forest plans on national forests east of the 100th meridian cannot recommend areas for wilderness designation, rather they can only recommend to Congress that such areas be studied for their wilderness suitability.

Sufficiency and judicial review of the RARE II environmental statement

The bill contains language relating to the sufficiency of the RARE II final environmental impact statement. As previously discussed, the need for the language arises because of a Federal district court dicision in *California* v. *Bergland,* supra, in which it was held that the RARE II environmental impact statement, as it applied to 46 areas considered for wilderness in California, had insuffiiently considered the wilderness alternative for the areas. Activities that would impair the wilderness characteristics of the areas were enjoined until subsequent reconsideration of wilderness was completed. This action creates unceratinty over the management of some nonwilderness areas, where administrative or judicial appeals

could halt some activities until adequate environmental impact statements are prepared. The Committee, in considerating the bill, has reviewed the roadless areas in Mississippi. It believes that the RARE II final environmental impact statement, insofar as National Forest System lands in Mississippi are concerned, is sufficient, and, therefore, the bill provides that such environmental statement shall not be subject to judicial review.

Release, management, and future wilderness consideration of non-wilderness areas

The RARE II process during 1977 through 1979 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976 (NFMA). That process requires the national forest land management plans to be reviewed and revised periodically to provide for a variety of uses on the land. During the review and revision process, the Forest Service is required to study a broad range of potential uses and options for each national forest. NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System is only one of the many options that must be considered during the planning process for those lands which may be suited for wilderness designation. The Forest Service is presently developing the initial, or "first generation", plan for each national forest. These are the so-called "section 6" plans, and they are scheduled for completion by September 30, 1985. Upon implementation, these plans will be in effect for 10 to 15 years before being revised and updated.

One of the goals of RARE II was to consider the wilderness potential of National Forest System roadless areas. The Committee believes that further consideration of the wilderness option during development of the initial plans for the National Forest System roadless areas in Mississippi, as defined in section 5 of the bill, and during the period when the initial plan is in effect, would be duplicative of studies and reviews that have already been made by both the Forest Service and Congress. Therefore, the bill provides that the RARE II evaluation or the reference to certain other lands constitutes an adequate consideration of the suitability of these roadless areas for inclusion in the National Wilderness Preservation System and no further review by the Department of Agriculture shall be required prior to the revision of the initial land management plan for the national forest. This provision is necessary to ensure that these lands will be considered as functioning units of the national forests and has the practical effect of releasing these lands for multiple uses other than wilderness.

The NFMA provides that a national forest management plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however, provide that a forest plan "shall ordinarily be revised on a 10-year cycle or at least every 15 years." (36 CFR 219.10(g)). The language of the bill tracks these regulations.

By tying future review of the wilderness option to revision of initial plans, the Committee intends to make it clear, consistent with the NFMA and current Forest Service regulations, that amendments to a plan, including those that might result in a significant

change in a plan, would not trigger the need for reconsideration of the wilderness option. The wilderness option does not need to be reconsidered until the Forest Service determines (1) based on a review of the lands covered by a plan, that conditions in the area covered by a plan have changed so significantly that the entire plan needs to be completely revised, or (2) that the statutory 15-year maximum life plan of the plan is expiring.

A revision of a forest plan is a costly undertaking in terms of dollars and manpower and the Committee does not expect such an effort to be undertaken lightly. When required by changing conditions, the Forest Service should make every effort to address local changes in land management plans through the amendment process, reserving the revision option only for major, forest-wide changes in conditions.

For example, if a new powerline is proposed to be built across a forest, any modification of the applicable forest plan to permit the line to be built would be accomplished by an amendment, not a revision, and therefore the wilderness option would not have to be reexamined. It is only when a proposed change in management would significantly affect overall goals or uses for the entire forest that a revision would be made. An example of such a situation is the recent eruption of Mt. St. Helens. Because if affected so much of the land in the Gifford Pinchot National Forest, including the forest's overall timber harvest schedule, the necessary changes in the applicable forest plan would likely be considered a revision of the plan. In this regard, the Committee notes that in the vast majority of cases the 10- to 15-year planning cycle established by the NFMA and in the existing regulations is short enough to accommodate most changes in circumstances without triggering more frequent plan "revisions". It is highly unlikely that conditions will change so dramatically during the 10- to 15-year planning cycle that anything more comprehensive than a plan amendment would be required.

It is not likely that primitive, semiprimitive, or motorized recreation use would change so rapidly over an entire national forest that the Forest Service or the Federal courts would be justified in concluding that the conditions in the forest are so significantly changed as to justify making a plan revision prior to the normal 10- to 15-year life span for the existing plan. For example, recreation use might increase in a specific area or areas resulting in changed conditions in the forest itself. In the judgment of the Forest Service, such changes could be met by amending the plan, as opposed to revising it. This is not to say that an increase in demand for recreation in a given area will automatically, in and of itself, constitute a valid requirement for even a plan amendment. In addition, it is not the Committee's intent, nor, in the judgment of the Committee, the intent of any Federal statute, to force the Forest Service into either plan amendments or revisions as a result of changes in use patterns in the national forests.

The Chief of the Forest Service has indicate that, in his view, most plans will be in existence for 10 years before they are revised. The Committee shares this view and anticipates that plans will not be revised in advance of their anticipated maximum life span absent extraordinary circumstances. The Committee understands

and expects that the first generation plans will be completed by late 1985 in most cases and the time of revision for most plans will begin about 10 years from the date of implementation for each plan. Accordingly, the Committee expects that the wilderness option for any area will not be reexamined again until the plans have been in effect for 10 years, unless the area is specifically designated as a wilderness study area by Congress.

The Committee notes that administrative or judicial appeals may mean that some of the first generation plans will not actually be implemented until the late 1980's, and plan revisions would not take place until a 10-year period has elasped from the date each plan is implemented. If the full 15 years allowed by NFMA elapses before a revision is made, the wilderness option may not in some cases be reviewed until the year 2000 or later.

The question has also arisen as to whether a revision would be triggered if the Forest Service is directed by the courts to modify or rework an initial plan, or if the Forest Service withdraws an initial plan to correct technical errors or to address issues raised by an administrative appeal. The Committee wants to make it as clear as possible that any reworking of an initial plan for such reasons would not constitute a revision of the plan and would not require the reconsideration of the wilderness option for the lands covered by the plan.

This position is based on the fact that court-ordered or administrative reworkings or modifications of a plan would most likely come about to resolve inadequacies in the preparation of the plan under the requirements of NFMA and other applicable laws. Since the NFMA, and the implementing regulations, specify that a plan revision will only occur when the Secretary finds that there has been a significant change in conditions in the forest planning unit, or at least once every 10 to 15 years, it is clear that such reworking or modification would not be a revision for at least two reasons: (1) the modification would not be the result of any significant change in conditions in the forest planning unit and (2) a plan must be properly prepared and implemented before it can be revised.

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that areas not designated for wilderness must be managed to preserve their wilderness attributes so that they may be considered for such designation in the future. This interpretation, if accepted as correct, would result in all roadless areas being kept in "de facto" wilderness status indefinitely. Such a requirement would be deterimental to the orderly management of nonwilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act of 1974.

To eliminate any possible misunderstanding on this point, the bill provides that areas not designated as wilderness need not be managed for the purpose of protecting their suitability for future wilderness designation pending revision of the initial plans. The intent is that these lands be managed for multiple uses in accordance with the land management plan.

The Forest Service already has statutory authority to manage roadless areas for multiple uses other than wilderness. The Committee wishes to make clear, however, that study of the wilderness

option in future generations of "section 6" plans is required only for those lands that may be suited for wilderness designation at the time of the development of such future plans. During the lifetime of each generation of plans, then, the forest land and other resources can, in fact, be put to the uses that are authorized in the plan. In short, one plan will remain in effect until the second plan is implemented, and the forest will be managed in accordance with the plan that is in effect, even if such management may result in the land no longer being suited for wilderness.

Thus, it is likely that areas evaluated for wilderness suitability in one generation of plans may not physically qualify for wilderness consideration by the time the next generation of plans is prepared. For example, the Committee notes that many areas that were studied for wilderness in the RARE II, recommended for nonwilderness, and released administratively in April of 1979, may no longer qualify as suitable wilderness study areas as a result of approved multiple-use activities having been carried out.

Under this provision, it is the Committee's intent and understanding that the Forest Service may conduct a timber sale in a roadless area being managed for multiple-use purposes other than wilderness and not be challenged on the basis that the area will be spoiled for consideration as wilderness in a future planning cycle. Once into a second-generation plan, the Forest Service may, of course, manage a roadless area according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still qualify for possible wilderness designation at the time of the third-generation planning process, which is likely in many cases, the wilderness option for the area would be considered at that time under the requirements of NFMA. In short, the wilderness option must be considered in each future planning generation for all of the areas in each planning unit that still possess the require wilderness attributes. There is no requirement, however, that these attributes be preserved for the purpose of maintaining the suitability of the affected areas for future evaluation as wilderness in the planning process.

In the Committee's judgment, the Forest Service is not required to manage multiple-use lands in a "de facto" wilderness manner. Of course, the Forest Service can, if it determines such action appropriate, manage lands to preserve their natural undeveloped characteristics if the applicable plan calls for such management. Likewise, the Forest Service can, if through the land management planning process it determines such action appropriate, provide for other multiple uses on lands that have not been designated as wilderness or as wilderness study areas by Congress. The Forest Service should be able to manage all nonwilderness lands in the manner determined appropriate through the land management planning process.

However, the bill also provides that lands recommended for wilderness designation in future generations of land management plans must be managed to protect their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by NFMA, and other applicable law.

In arriving at this position, the Committee has carefully considered and balanced the wishes and concerns of many varied interest groups involved in this issue, and wishes to emphasize the vital importance of completing and implementing the forest plans in Mississippi and ending the state of uncertainty over appropriate land management that now exists in the national forests.

In order to eliminate the land management uncertainty with regard to as much of the National Forest System land in Mississippi as possible, the bill provides that the release and sufficiency provisions of the bill also apply to those National Forest System roadless lands that were evaluated in the Delta unit plan and to National Forest System roadless lands in Mississippi that are less than 5,000 acres in size.

No further statewide wilderness review

With regard to the possibility of the Forest Service undertaking future administrative reviews similar to RARE I and RARE II, since the National Forest Management Act of 1976 planning process is now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process, unless Congress expressly asks for additional evaluations through authorizing legislation. Therefore, the bill prohibits the Department of Agriculture from conducting any further statewide roadless area review and evaluation of National Forest System lands in Mississippi for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System. This provision does not prohibit the Forest Service from considering the wilderness option during a normal plan revision when the entire State is covered by a single plan.

Committee Consideration

HEARINGS

On Wednesday, July 25, 1984, the Subcommittee on Soil and Water Conservation, Forestry, and Environment, chaired by Senator Roger Jepsen, Held a hearing on S. 2808, the Mississippi National Forest Wilderness Act of 1984.

In his opening remarks, Senator Jepsen said that he appreciates and respects the different points of view on the amount of land to be designated as wilderness in the various States and hopes the hearing will help resolve these issues. He also noted that compromise release language worked out between the Senate and House has enabled several wilderness bills to be signed into law.

Senator Thad Cochran, sponsor of the bill, testified in favor of the legislation and said that, through the involvement of the citizens of Mississippi, an agreement has been developed on this important piece of legislation. If passed and signed into law, it will ensure the preservation of an important part of Mississippi heritage for future generations to enjoy. Senator Cochran also noted that S. 2808 was the first bill ever introduced to designate lands as wilderness in the State of Mississippi.

F. Dale Robertson, Associate Chief, Forest Service, testified for the Department of Agriculture. Mr. Robertson stated that the two areas designated for wilderness by S. 2808 are generally recognized as having outstanding opportunities for solitude and unconfined recreation. He further noted that both areas were recommended for wilderness during RARE II, and the Department of Agriculture continues to support their designation.

The final witness to address S. 2808 was Dr. Thomas M. Pullen, Jr., Member, Executive Committee, Mississippi Chapter, Sierra Club. Dr. Pullen stated that the Mississippi chapter of the Sierra Club supports S. 2808 and believes its to be a compromise that takes an important first step toward designation of wilderness areas in the State of Mississippi. He noted that the bill, as presently drafted, would exclude all other potential national forest roadless areas from wilderness consideration for a 10- to 15-year period.

Dr. Pullen said that, unlike many other States, Mississippi has very few areas that possess true wilderness characteristics, and all are valuable and worthy of protection. He said the Mississippi Chapter of the Sierra Club is disappointed that the bill does not incorporate language to allow continued national forest wilderness consideration prior to future management plan revision 10 to 15 years from now. Dr. Pullen stated that while compromises, at times, must be made, good stewardship of public lands demands that management be geared toward the long-term needs of society.

COMMITTEE MARKUP

The Committee met in open sesson on Thursday, September 13, 1984, to consider S. 2808.

In his opening statement, Chairman Helms noted that the Mississippi wilderness bill was just one of six bills to be considered by the Committee that would add new areas to the National Wilderness Preservation System. Consideration of these bills, together with the four wilderness bills considered by the Committee and signed into law earlier this year, indicates that the Committee takes seriously its responsibility to provide clear direction for forestry policy regarding wilderness and other matters. Chairman Helms noted that the preservation of these additional wilderness areas will leave a legacy that will provide unlimited opportunity for primitive recreation and enjoyment for those choosing to visit the areas.

Senator Huddleston questioned the Forest Service on their efforts to obtain the privately-held mineral rights on existing wilderness areas and whether the exercise of those rights is a growing problem. Douglas MacCleery, Deputy Assistant Secretary for Natural Resources and Environment of the Department of Agriculture, responded that since most of the national forest lands in the eastern United States were acquired from private owners who retained the subsurface mineral rights, it would be very expensive to acquire all of those rights, and the Forest Service does not buy those rights when it makes new acquisitions. The Forest Service deals with this issue on a case-by-case basis, and if a private owner elects to exercise his mineral rights, the Forest Service looks at the impact it might have on the wilderness value and makes a decision

as how best to proceed. This factor is also taken into consideration when the Department makes recommendations on which areas are appropriate for wilderness designation.

After a brief explanation of the bill, Chairman Helms, on behalf of Senators Cochran and Stennis, offered an amendment that would make technical and clerical changes in the bill. The amendment was adopted by voice vote.

Senator Cochran expressed his hope that the Senate could complete action on the bill in this session.

By voice vote, the Committee ordered S. 2808 reported, as amended, with a recommendation that it pass.

Section-by-Section Analysis

Short title

Section 1 provides that the bill may be cited as the "Mississippi National Forest Wilderness Act of 1984".

Designation of wilderness areas

Section 2 designates certain National Forest System lands in Mississippi, totaling approximately 5,500 acres, as wilderness areas and as components of the National Wilderness Preservation System as follows:

(1) approximately 4,560 acres in the De Soto National Forest, as generally depicted on a map entitled "Proposed Black Creek Wilderness", dated January 1979, which shall be known as the Black Creek Wilderness; and

(2) approximately 940 acres in the De Soto National Forest, as generally depicted on a map entitled "Proposed Leaf Wilderness", dated January 1979, which shall be known as the Leaf Wilderness.

Maps and descriptions

Section 3 requires that, as soon as practicable after enactment of the bill, maps and legal descriptions of the areas designated as wilderness in the bill be filed by the Secretary of Agriculture with the House Committees on Agriculture and on Interior and Insular Affairs and with the Senate Committee on Agriculture, Nutrition, and Forestry. In addition, the bill provides that the maps and descriptions shall have the same force and effect as if included in the bill, except that correction of clerical and typographical errors may be made by the Secretary. The maps and descriptions must be on file and available for public inspection in the Office of the Chief of the Forest Service.

Administration of wilderness

Section 4 requires that, subject to valid existing rights, each of the areas designated as wilderness by the bill be administered by the Secretary in accordance with the provisions of the Wilderness Act, except that any reference in those provisions to the effective date of that Act would be deemed to be a reference to the date of enactment of the bill.

Effect of RARE II

Section 5(a) contains congressional findings to the effect that the Department of Agriculture has completed the second roadless area review and evaluation (RARE II) and that Congress has made its own evaluation of National Forest System roadless areas in Mississippi, including reviewing the environmental impacts associated with alternative uses of these areas.

Section 5(b) provides that Congress determines and directs, with respect to the National Forest System lands in Mississippi, that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Mississippi, such final environmental statement shall not be subject to judicial review;

(2) to the extent such lands were reviewed in the RARE II or otherwise referenced in subsection (d), the RARE II review and evaluation or reference shall be considered to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System for the purposes of the initial land management plans required by law. Also, the Department shall not be required to review the wilderness option for such lands prior to revision of the initial land management plans but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a 10-year cycle, or at least every 15 years, unless, prior to that time, the Secretary finds that conditions in a unit have significantly changed;

(3) to the extent such lands were reviewed in the RARE II final environmental statement, or otherwise referenced in the bill and not designated as wilderness, such nondesignated lands shall be managed for multiple-use purposes in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, except that such lands need not be managed to protect their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans are implemented, areas not recommended for wilderness designation in any such revisions need not be managed to protect their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed to protect their suitability for wilderness designation as may be required by applicable law; and

(5) unless expressly authorized by Congress, the Department shall not conduct any additional statewide roadless area review and evaluation of such lands for the purpose of determining the suitability of any additional areas for inclusion in the National Wilderness Preservation System.

Section 5(c) provides that, as used in the bill and in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, the term "revision" does not include an "amendment" to a plan.

Section 5(d) provides that the release provisions of the section also apply to—

(1) those National Forest System roadless lands that were evaluated in the Delta unit plan dated February 1976; and

(2) National Forest System roadless lands in Mississippi that are less than 5,000 acres in size.

Administration Views

On August 6, 1984, Chairman Helms received a report from Secretary of Agriculture John R. Block expressing the Department's support for the enactment of S. 2808. This report, along with the portion of the July 25, 1984, testimony to the Subcommittee on Soil and Water Conservation, Forestry, and Environment presented by Mr. F. Dale Robertson, Associate Chief of the Forest Service, on S. 2808 follows:

Department of Agriculture,
Office of the Secretary,
Washington, DC, August 6, 1984.

Hon. Jesse Helms,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, DC.

Dear Mr. Chairman: We would like to offer our views on S. 2808, a bill "To designate certain National Forest System lands in the State of Mississippi as wilderness, and for other purposes."

The Department of Agriculture recommends that the bill be enacted.

S. 2808 would designate two wildernesses on National Forest System lands in the State of Mississippi. They are the 4,560-acre Black Creek proposed wilderness and the 940-acre Leaf proposed wilderness.

Currently, there are no wilderness areas in the State of Mississippi. The second Roadless Area Review and Evaluation (RARE II) analyzed only three areas, totaling just over 7,800 acres for wilderness suitability. In that review, these two present proposals, Black Creek and Leaf, were recommended for wilderness. The other area, Sandy Creek, was identified for further planning.

Both the Black Creek and Leaf proposals are generally recognized as having outstanding opportunities for solitude and confined recreation. Water is a major feature at these areas.

The bill contains the recent compromise release language and would release the Sandy Creek roadless area as well as areas less than 5,000 acres that might not have been inventoried in RARE II.

We estimate that the costs of surveying, planning, and related activities necessary to implement the bill would be approximately $50,000 over the next 5 years.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

John R. Block, *Secretary.*

STATEMENT OF F. DALE ROBERTSON, ASSOCIATE CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Before the Subcommittee on Soil and Water Conservation, Forestry, and Environment of the Senate Committee on Agriculture, Nutrition and Forestry

Concerning S. 2773, S. 2805, H.R. 5121 and S. 2808, July 25, 1984

Mr. Chairman and members of the committee: It is a pleasure to join you here today as you consider several bills that would designate portions of the National Forests in Georgia, Mississippi, and Virginia as components of the National Wilderness Preservation System.

S. 2808—The "Mississippi National Forest Wilderness Act of 1984"

This bill would designate two wilderness areas in the State of Mississippi—Black Creek and Leaf—totaling approximately 5,500 acres.

Currently, there are no wilderness areas in the State of Mississippi. Black Creek and Leaf are generally recognized as having outstanding opportunities for solitude and unconfined recreation. Water is a major feature at both areas. Both of these areas were recommended for wilderness during RARE II, and we continue to support their designation. The bill contains the Senate/House compromise release language which we support.

We recommend S. 2808 be enacted.

COST ESTIMATE

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that the enactment of S. 2808 would result in a cost to the Federal Government of approximately $50,000 over the next 5 fiscal years. However, small savings in land management planning costs over the next 3 years will result from certain areas being released from further wilderness review during the period of the initial land management plans.

In accordance with the Congressional Budget Act of 1974, the Congressional Budget Office prepared the following cost estimate, which is consistent with the Committee's cost estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 17, 1984.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2808, the Mississippi National Forest Wilderness Act of 1984, as ordered reported by the Senate Committee on Agriculture, Nutrition and Forestry, September 13, 1984.

This bill adds 5,500 acres of land in Mississippi to the national wilderness preservation system. Based on information from the National Forest Service (NFS), we estimate that additional costs to

the federal government for surveying, planning and related activities necessary to implement the wilderness withdrawals will be approximately $50,000 over the five fiscal years beginning with 1985.

All roadless areas in national forests not designated as wilderness or expressly excluded from further review by an act of the Congress are currently being reevaluated for their suitability for inclusion in the national wilderness preservation system. S. 2808 removes from this review all roadless areas in Mississippi included in the Department of Agriculture's second Roadless Areas Review and Evaluation (RARE II) during the period of the initial land management plans. This will result in small savings in land management planning costs over the next three years.

Enactment of this bill would not significantly affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ERIC HANUSHEK
(For Rudolph G. Penner).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2808. The bill would designate certain lands in the State of Mississippi as components of the National Wilderness Preservation System.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

Subject to valid existing rights, the Wilderness Act prohibits future harvesting of timber and future entry for mineral extraction on lands included in the National Wilderness Preservation System. Enactment of the bill will result in approximately 5,500 acres being placed in the National Wilderness Preservation System, and, thereby, will restrict uses other than wilderness on such land.

Wilderness designation will result in restricting private individuals' motorized use of public lands. Activities which have previously occurred, such as firewood gathering, motorized access for hunting and fishing, and trail bike riding, will be terminated.

A wilderness permit may be required of individuals using certain wilderness areas and, therefore, limited personal information would be collected in administering the program. It is anticipated that the impact on personal privacy would be minimal.

The bill will not result in any significant additional paperwork or recordkeeping requirements.

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